

**MAY 7, 1997**

**OLYMPIA, WASHINGTON**

**ISSUE 97-09**



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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

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## REPUBLICATION OF OFFICIAL DOCUMENTS

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## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of May 1997 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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# WASHINGTON STATE REGISTER

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

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## STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

### 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **INDEX**-includes a combined subject matter and agency index.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

### 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) underlined material is new material;
  - (ii) ~~deleted material is ((lined out between double parentheses))~~;
- (b) Complete new sections are prefaced by the heading **NEW SECTION**;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading **REPEALER**.

### 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

### 4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

### 5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

**1996 - 1997**  
**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than 12:00 NOON--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
96-16	Jul 10	Jul 24	Aug 7	Aug 21	Sep 10
96-17	Jul 24	Aug 7	Aug 21	Sep 4	Sep 24
96-18	Aug 7	Aug 21	Sep 4	Sep 18	Oct 8
96-19	Aug 21	Sep 4	Sep 18	Oct 2	Oct 22
96-20	Sep 4	Sep 18	Oct 2	Oct 16	Nov 5
96-21	Sep 25	Oct 9	Oct 23	Nov 6	Nov 26
96-22	Oct 9	Oct 23	Nov 6	Nov 20	Dec 10
96-23	Oct 23	Nov 6	Nov 20	Dec 4	Dec 24
96-24	Nov 6	Nov 20	Dec 4	Dec 18, 1996	Jan 7, 1997
97-01	Nov 21	Dec 5	Dec 19, 1996	Jan 2, 1997	Jan 22
97-02	Dec 5	Dec 19, 1996	Jan 2, 1997	Jan 15	Feb 4
97-03	Dec 26, 1996	Jan 8, 1997	Jan 22	Feb 5	Feb 25
97-04	Jan 8	Jan 22	Feb 5	Feb 19	Mar 11
97-05	Jan 22	Feb 5	Feb 19	Mar 5	Mar 25
97-06	Feb 5	Feb 19	Mar 5	Mar 19	Apr 8
97-07	Feb 19	Mar 5	Mar 19	Apr 2	Apr 22
97-08	Mar 5	Mar 19	Apr 2	Apr 16	May 6
97-09	Mar 26	Apr 9	Apr 23	May 7	May 27
97-10	Apr 9	Apr 23	May 7	May 21	Jun 10
97-11	Apr 23	May 7	May 21	Jun 4	Jun 24
97-12	May 7	May 21	Jun 4	Jun 18	Jul 8
97-13	May 21	Jun 4	Jun 18	Jul 2	Jul 22
97-14	Jun 4	Jun 18	Jul 2	Jul 16	Aug 5
97-15	Jun 25	Jul 9	Jul 23	Aug 6	Aug 26
97-16	Jul 9	Jul 23	Aug 6	Aug 20	Sep 9
97-17	Jul 23	Aug 6	Aug 20	Sep 3	Sep 23
97-18	Aug 6	Aug 20	Sep 3	Sep 17	Oct 7
97-19	Aug 20	Sep 3	Sep 17	Oct 1	Oct 21
97-20	Sep 3	Sep 17	Oct 1	Oct 15	Nov 4
97-21	Sep 24	Oct 8	Oct 22	Nov 5	Nov 25
97-22	Oct 8	Oct 22	Nov 5	Nov 19	Dec 9
97-23	Oct 22	Nov 5	Nov 19	Dec 3	Dec 23
97-24	Nov 5	Nov 19	Dec 3	Dec 17, 1997	Jan 6, 1998

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

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

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

## **REGULATORY FAIRNESS ACT**

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

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

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

### **Mitigation**

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

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

When:

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

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

When:

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

There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.



**WSR 97-09-010**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed April 4, 1997, 3:55 p.m.]

**Subject of Possible Rule Making:** Chapter 392-121 WAC, Basic education funding; chapter 392-134 WAC, Apportionment for part-time public school attendance; and chapter 392-137 WAC, Nonresident attendance.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.150.290, 28A.150.350, 28A.225.230.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To allow claiming of basic education funding for part-time home-based and private school students enrolled in public schools for alternative education. To prescribe the minimum number of minutes in an hour of instruction. To clarify when sports activities may be claimed for basic education funding. To make other clarifications as needed and delete rules determined to be unnecessary.

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

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

Dr. Terry Bergeson  
 Superintendent of  
 Public Instruction

**WSR 97-09-018**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF ECOLOGY**  
 [Order 97-07—Filed April 8, 1997, 9:32 a.m.]

**Subject of Possible Rule Making:** (1) Determination of the counties in which Stage 2 gasoline vapor recovery systems are needed to achieve or maintain the national ambient air quality standard (NAAQS) for ozone in a nonattainment or attainment plan county. Possible counties include Cowlitz, Island, Kitsap, Lewis, Skagit, Thurston, Wahkiakum, and Whatcom. (2) Revise chapters 173-490 and 173-491 WAC to provide clarity and ensure consistency.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 70.94.165.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** (1) Installation of Stage 2 gasoline vapor recovery systems in counties that contribute to the ozone problem in previous or current nonattainment areas will help those areas to achieve or maintain the NAAQS for ozone. (2) Overlapping, inconsistent, and duplicative parts of chapters 173-490 and 173-491 WAC will be reorganized.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The United States Environmental Protection Agency (EPA) requires local air authorities that are or have been in violation of the NAAQS for ozone to adopt plans to

achieve or maintain the standard. Use of Stage 2 is one of the strategies that local air authorities rely on to achieve attainment, although this is not directly required by EPA. The proposed rule will be consistent with local ozone plans. Local air authorities are represented on the advisory committee for this rule.

**Process for Developing New Rule:** Agency study; and the Department of Ecology is conducting a study of ozone precursor transport to determine which counties should have Stage 2. A committee has been established to advise ecology about design and interpretation of the study and its determination regarding the requirement for Stage 2. A proposed rule will be published. Hearings will be held.

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

April 1, 1997  
 D. J. Patin  
 Assistant Director

**WSR 97-09-023**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**  
 [Filed April 9, 1997, 11:00 a.m.]

**Subject of Possible Rule Making:** Clarifying the mechanisms for ensuring that telephone subscribers have minimum reasonable local calling areas and opportunities to make interexchange calls at flat rates or rates less than state-wide tariffed per minute toll rates. Docket No. UT-970545.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 80.36.100, 80.36.160, 80.36.170, and 80.36.180.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Existing rules addressing subscribers' ability to make interexchange calls at flat rates provided a state-wide standard that focussed on local calling capability for each exchange. The process for achieving the standard was to create "extended area service" routes. Implementation of the rule greatly reduced disparities in the scope and price of local service across the state.

New rules may be needed because the existing rule does not address all interest in interexchange calling at flat rates and there were difficulties in applying the rule in certain situations that were clearly within the intent of the rule.

New rules or policy directives could offer more flexible opportunities for flat-rated interexchange calling when the existing local calling area boundaries do *not* divide a community; and new rules might make it easier to expand local calling areas directly when such expansion is merited by the configuration of the local community vis a vis its telephone exchange boundary.

New rules or policy directives must in effect answer these two fundamental policy questions:

1. When should subscribers in a telephone exchange have the opportunity to call locations in other exchanges (i.e., to make interexchange calls) without paying otherwise applicable state-wide per-minute toll rates?

2. What should go into the calculation of the rates for such interexchange calls?

A sampling of specific questions that relate to these issues are:

1. Should there be a state-side standard for minimum local calling capability that is required to be available for every exchange? If so, how should the standard be defined?

2. If there were a state-wide standard, should it be achieved by incorporating exchanges into larger local calling areas? Should such expansion be paid for by subscribers in the area where the expansion occurs, or should the relevant telephone company rebalance all local rates?

3. How should we encourage or require other opportunities for flat-rated or other lower-priced interexchange calling?

4. The commission has in selected instances allowed telephone companies to incorporate additional exchanges into an expanded local calling area in order to offer some subscribers "optional local calling plans" at rates lower than toll. Is the incorporation of additional exchanges into an expanded local calling area the best way to get companies to offer flat-rated and lower-priced interexchange calling? What costs should be reflected in the price of such local interexchange calling plans? What if any requirements would be needed to ensure a level playing field for all competitors?

5. Would it be better to pursue optional calling plans that do not depend on the commission's approval of an expanded local calling area? Would the price of such optional toll calling plans have to reflect access costs?

6. Is it a good idea for a company to charge some customers toll rates based on access charges, and others local rates for the same calls?

7. Should flat-rated and other lower-priced interexchange calling plans if offered in any exchange be available on consistent terms in all exchanges served by the offering telephone company? Should they be available only to subscribers in selected exchanges? If the latter, what should be the basis for selecting the exchanges?

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** A working group will develop initial proposals on the subject and coordinate with the FCC and joint board in these proceedings: Access Charge Reform (WUTC staff investigation and FCC notice of proposed rule making in Docket No. UT-960380, FCC Doc. No. 96-262); numerous interconnection proceedings before the WUTC (deriving from FCC Docket No. 96-123 and CC 96-61 Policy and Rules Re: Interstate and Interexchange Marketplace); and Universal Service (FCC Doc. No. 96-45 and WUTC Staff Investigation Docket No. UT-960301).

**Process for Developing New Rule:** Agency study; and the commission will call for initial written comments, and will provide the opportunity for additional written comments. The commission will schedule one or more workshops with representatives of affected constituencies in a manner designed to develop consensus regarding any rule proposal. See response below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The commission will issue a general call for comments. From commenters and from other interests that the commission knows to be affected by such a proposal, the commission will invite participation in a work group representing consumers, companies, policy makers and others to study the issue and recommend whether and how to change the existing rule and policy. Any proposed changes will be circulated in draft form for written and oral comment from members of the public. Final evaluation of and recommendations regarding any proposed rule and policy will be developed in light of public comment.

Interested persons may contact the Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, (360) 753-6451, FAX (360) 586-1150. Such persons may submit comments, as specified below, or may ask to be included on the commission's list of interested persons for the proceeding.

**Written Comments:** Written comments in response to the CR-101 from persons interested in the subject matter of this proposed rule making may be filed with the Commission Secretary, referencing Docket No. UT-970545, not later than May 2, 1997. All commenters are asked, but not required, to address the questions listed in this CR-101, and to file an original and ten copies of their written comments. The commission also requests, but does not require, that comments be provided on a 3 1/2 inch IBM formatted high-density disk, in WordPerfect version 5.1, 6.0 or 6.1, labeled with the docket number of this proceeding and the commenter's name and type of software used. The commission will offer additional opportunities to provide written comments on any specific proposals or alternative proposals. Interested persons may file additional written comments in response to any such invitation.

**Workshops:** The commission will schedule workshops at which representatives of affected interests discuss and propose alternative means of addressing the underlying issues, which are expected to involve potential changes to commission rules. The commission will select participants in the workshops from those who comment and from representatives of interests known to the commission to be affected by the commission's actions.

**Oral Comments:** The commission will schedule an opportunity for oral comments as an element of adopting a potential rule change. The commission will provide written notice of the nature, time, and place of any opportunity for general public comment to all persons who provide written comments and to any other person specifically asking to receive such notices in this proceeding.

April 9, 1997  
Terrence Stapleton  
for Steve McLellan  
Secretary

**WSR 97-09-032**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF EDUCATION**

[Filed April 10, 1997, 4:40 p.m.]

Subject of Possible Rule Making: Section 502 (1)(e), chapter 6, Laws of 1994 sp. sess., WAC 180-24-400 through 180-24-415.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Further clarify policies and procedures for the designation of small school plants as remote and necessary.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Establish further guidelines, policies, and procedures to base decisions of granting designation of small school plants as remote and necessary.

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, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

April 10, 1997

Larry Davis  
 Executive Director

**WSR 97-09-047**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed April 15, 1997, 4:30 p.m.]

Subject of Possible Rule Making: Rules governing the assessment of expenses for teachers' retirement system plan III members who wish to avail themselves of the self-directed investment options authorized by the Employee Retirement Benefits Board.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.088, 41.34.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Teachers' retirement system plan III members have expressed considerable interest at Employee Retirement Benefits Board meetings in being able to self-direct the investment of their TRS III accounts. RCW 41.34.060 requires that individual members pay the expenses associated with self-directed investment. RCW 41.34.060 also requires the board to adopt rules describing how expenses are determined and how those charges will be assessed against members. The rules were adopted as emergency rules in order to allow the board to offer the self-directed options effective April 1, 1997. Adopting the rules as permanent rules will assure that the board can continue to offer self-directed options to TRS III members after the expiration date of the emergency rules.

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 negotiated with the third-party administrator of the TRS III plan to determine the appropriate basis for assessing charges to self-directed investors and to set that charge as low as possible. This process served as the basis for the emergency rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Paul Neal, Rules Coordinator, Legal/Legislative Affairs, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, phone (360) 586-3368, FAX (360) 753-3166.

April 15, 1997

Paul Neal  
 Rules Coordinator

**WSR 97-09-054**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**

[Filed April 17, 1997, 12:06 p.m.]

Subject of Possible Rule Making: Child (day) care regulations.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.15.060 and 43.70.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarify roles between the Department of Health and the Department of Social and Health Services to alleviate overlap and delineate regulatory authority.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: A representative from the Department of Social and Health Services will be needed to coordinate functions during the development of these rules.

Process for Developing New Rule: Negotiated rule making, an oversight committee consisting of representatives from the Department of Social and Health Services, Child Care Coordinating Committee, local health departments, parent group representatives and centers of varying sizes will assist the department in rule development. All draft materials will be made available to constituents for a larger review audience. All comments will be taken into consideration for final rule development.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. A preliminary meeting will be held April 29, 1997, from 9:30 a.m. - 2:30 p.m. in the Training Room at Target Plaza, 2725 Harrison Avenue, Olympia. Contact: Fern Bettridge, Program Manager, P.O. Box 47852, Olympia, WA 98504-7852, (360) 705-6620, (360) 705-6654.

April 15, 1997

Bruce Miyahara  
 Secretary

**WSR 97-09-060**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SECRETARY OF STATE**

[Filed April 21, 1997, 11:56 a.m.]

Subject of Possible Rule Making: Verification of signatures on initiative and referendum petitions.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29.79.200 and 29.04.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To make the rule governing the verification of signatures on initiative and referendum petitions consistent with RCW 29.79.200.

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. For further information or to submit comments, contact Donald F. Whiting, P.O. Box 40220, Olympia, WA 98504-0220, phone (360) 902-4148, FAX (360) 586-5629.

April 21, 1997

Donald F. Whiting  
 Assistant Secretary of State

**WSR 97-09-070**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF TRANSPORTATION**

[Filed April 22, 1997, 8:34 a.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: (a) Amends WAC 468-66-010 Definitions, by adding new definition WAC 468-66-010(28) Tri-vision sign; (b) amends WAC 468-66-030 General provisions, by adding new general provision WAC 468-66-030(13); and (c) amends WAC 468-66-150 Penalties, by clarifying language pertaining to discontinued signs in WAC 468-66-150 [(1)](e).

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

Process for Developing New Rule: Negotiated rule making, requested by the Washington State Outdoor Advertising Association (WSOAA). Negotiations and agreement coordinated with FHWA, WSOAA, and the Department of Transportation.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Shanafelt, Acting State Traffic Engineer, Washington State Department of Transportation, P.O. Box 47344, Olympia, WA 98504-7344, phone (360) 705-7282, FAX (360) 705-6826.

April 21, 1997

S. A. Moon  
 Deputy Secretary  
 for Operations

**WSR 97-09-078**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed April 22, 1997, 11:41 a.m.]

Subject of Possible Rule Making: Chapter 296-62 WAC, Methylene chloride.

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: On January 10, 1997, the Occupational Safety and Health Administration (OSHA) adopted a new regulation for methylene chloride, a widely used solvent. (See Federal Register, Vol. 62, No. 7.) As required by the OSHA/WISHA state plan agreement, the department must adopt rules that are identical to or at-least-as-effective-as OSHA rules. The department intends to adopt a rule identical to the OSHA regulation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other known state or federal agencies regulate this subject.

Process for Developing New Rule: The department must adopt rules identical or at-least-as-effective-as OSHA rules as required by the OSHA/WISHA state plan agreement. Parties interested in the development of these rule proposals may contact Dan Locke, Industrial Hygienist, at the address listed below. The public may also participate in the rule adoption process by providing written or oral testimony concerning the proposed rules 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 Dan Locke, Industrial Hygienist, Department of Labor and Industries, Consultation and Compliance Division, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5524, FAX (360) 902-5529.

April 22, 1997

Gary Moore  
 Director

**WSR 97-09-082**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed April 22, 1997, 1:39 p.m.]

Subject of Possible Rule Making: Increase in real estate appraiser examination and reexamination fees paid directly to testing service, WAC 308-125-120 (2) and (3).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.140.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The charge for taking a real estate appraiser examination is established by contract between the Department of Licensing and an independent testing service. The examination fee is paid by an applicant directly to the testing service. The proposed rate charge reflects provisions in the new contract.

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 Cleotis Borner, Jr., Real Estate Appraiser Program, Department of Licensing, P.O. Box 9015, Olympia, WA 98507-9015, phone (360) 753-1062, FAX (360) 586-0998.

April 22, 1997  
Cleotis Borner, Jr.  
Program Manager

**WSR 97-09-083**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed April 22, 1997, 1:41 p.m.]

Subject of Possible Rule Making: Increase real estate appraiser application, certification, and renewal fees to defray costs of administering the real estate appraiser program, WAC 308-125-120 (1), (4), and (5).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.140.050, 43.24.086.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under provision of RCW 43.24.086, the cost of each professional licensing program shall be borne by the members of that profession. The director of the Department of Licensing is charged with setting fees at a level sufficient to defray the costs of administering the program.

Projected revenue for the 1997-99 biennium from licensing fees is not sufficient to cover projected operating costs for the real estate appraiser program. An increase in original license applications anticipated as a result of mandatory licensing legislation has not been realized. In addition, many licensees have opted not to renew due to market conditions and perceptions regarding the value of certification or licensing.

Current resources are needed, at a minimum, to maintain program effectiveness. Program workload has shifted from primarily an application review process to include an emphasis on the enforcement of practice standards. Consumer complaints are technical in nature, related enforcement involves increased staff training, investigation and legal support costs.

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 Cleotis Borner, Jr., Real Estate Appraiser Program, Department of Licensing, P.O. Box 9015, Olympia, WA 98507-9015, phone (360) 753-1062, FAX (360) 586-0998.

April 22, 1997  
Cleotis Borner, Jr.  
Program Manager

**WSR 97-09-085**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed April 23, 1997, 9:11 a.m.]

Subject of Possible Rule Making: Personal use fishing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080 and 77.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules will be needed to implement recommendations from the Pacific Fisheries Management Council and the North of Falcon process to conserve salmonid stocks, while offering recreational opportunity.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The proposed rules will coordinate with recommendations of the Pacific Fisheries Management Council.

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 Bruce Crawford, Assistant Director, Fish Management, 600 Capitol Way North, Olympia, WA 98501, (360) 902-2325. Contact by July 1, 1997.

Expected Proposal Filing: July 2, 1997.

April 23, 1997  
Evan Jacoby  
Rules Coordinator

**WSR 97-09-086**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed April 23, 1997, 9:14 a.m.]

Subject of Possible Rule Making: Hunter education certificate display.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 77.12.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Eliminate confusion concerning documentation to be presented when obtaining a hunting license.

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 Sandi Snell, Assistant Director, Public Affairs and Outreach and Education, 600 Capitol Way North, Olympia, WA 98501, (360) 902-2229. Contact by July 1, 1997.

Expected Proposal Filing: July 2, 1997.

April 23, 1997  
Evan Jacoby  
Rules Coordinator

**WSR 97-09-093**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**OFFICE OF MINORITY AND**  
**WOMEN'S BUSINESS ENTERPRISES**

[Filed April 23, 1997, 10:32 a.m.]

Subject of Possible Rule Making: WAC 326-30-041 Annual goals.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 39.19.030(7).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Goals provide benchmarks for measuring the performance of state agencies and educational institutions in increasing participation of minority and women-owned businesses in state contracting and procurement.

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

Process for Developing New Rule: Comments from the affected business community and state organizations will be solicited directly.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Juan Huey-Ray, Rules Coordinator, Office of Minority and Women's Business Enterprises, P.O. Box 41160, Olympia, WA 98504-1160, phone (360) 586-1228, FAX (360) 586-7079. All comments must be received by July 22, 1997, at 5:00 p.m.

April 23, 1997  
Clarence Gillis  
Deputy Director

**WSR 97-09-109**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed April 23, 1997, 11:36 a.m.]

Subject of Possible Rule Making: Party status rights for physical custodians in Division of Child Support support establishment proceedings.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220(1), 74.20A.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: At the present time, only nonassistance custodial parents have party status rights in support establishment proceedings. DCS wishes to extend party status rights to all physical custodians in the DCS caseload, regardless of whether the family receives public assistance, by amending existing WAC 388-11-400 through 388-11-430.

Process for Developing New Rule: Agency study; and those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at DCS headquarters prior to June 13, 1997, when DCS intends to file the CR-102 and draft rules.

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 Headquarters, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 586-3077, FAX (360) 586-3274, TTY/TDD (360) 753-9122, e-mail nkopur@dshs.wa.gov [nkoptur@dshs.wa.gov].

April 21, 1997  
Philip A. Wozniak, Director  
Administrative Services

**WSR 97-09-110**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed April 23, 1997, 11:38 a.m.]

Subject of Possible Rule Making: WAC 388-14-030, dealing with confidentiality requirements and address disclosure.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 26.23.120(2), 34.05.220(1), section 908 of EBH 3901 PL, signed April 18, 1997.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under welfare reform, the rules regarding confidentiality, especially regarding address disclosure, are tightened up. DCS' rules need to be brought into conformity with the requirements of federal and state law.

Process for Developing New Rule: Agency study; and those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at DCS headquarters prior to June 13, 1997, when DCS intends to file the CR-102 and draft rules.

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 Headquarters, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 586-3077, FAX (360) 586-3274, TTY/TDD (360) 753-9122, e-mail nkoptur@dshs.wa.gov.

April 21, 1997  
Philip A. Wozniak, Director  
Administrative Services

**WSR 97-09-111**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Public Assistance)  
[Filed April 23, 1997, 11:39 a.m.]

Subject of Possible Rule Making: Changes to the laws regarding the affidavit acknowledging paternity; new WAC sections, plus amendments to WAC 388-11-045, 388-11-032, and 388-11-048.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.220(1), 74.20A.055, sections 901, 937, 938, 939, 940, and 941 of EHB 3901 PL, signed April 18, 1997.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Welfare reform makes changes to chapter 26.26 RCW, and RCW 74.20A.055, 74.20A.056, and 70.58.080. The effect of an acknowledgment of paternity is changed from a presumption under RCW 26.26.040 to a legal finding of paternity sixty days after filing, subject only to a challenge in superior court based on fraud, duress, or material mistake of fact. This necessitates changes in the procedures governing the notice and finding of parental responsibility. Changes to WAC 388-11-285, dealing with the notice and finding of financial responsibility, are also needed.

Process for Developing New Rule: Agency study; and those persons wishing to participate in developing the new rules are encouraged to contact Nancy Koptur at DCS headquarters prior to June 13, 1997, when DCS intends to file the CR-102 and draft rules.

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 Headquarters, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507-9162, phone (360) 586-3077, FAX (360) 586-3274, TTY/TDD (360) 753-9122, e-mail nkoptur@dshs.wa.gov.

April 23, 1997

Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

referencing vocational-technical institutes and amend WAC 180-33-025(2) to eliminate interpretative conflicts in determining space eligibility for modernization.

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, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

April 23, 1997

Larry Davis  
Executive Director

### WSR 97-09-115

#### PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed April 23, 1997, 11:45 a.m.]

Subject of Possible Rule Making: WAC 180-27-056(2).  
Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.525.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As drafted, this amendment clarifies language to specify type of fund balance.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: To comply with full accrual accounting practices.

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, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (360) 586-2357, TDD (360) 664-3631. For telephone assistance contact Larry Davis, (360) 753-6715.

April 23, 1997

Larry Davis  
Executive Director

### WSR 97-09-116

#### PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed April 23, 1997, 11:47 a.m.]

Subject of Possible Rule Making: WAC 180-33-025  
(1)(2)(3).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.525.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As drafted, this amendment clarifies intent of subsection (2) and eliminates subsection (3) of WAC 180-25-025.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: To eliminate nonapplicable WAC 180-33-025(3)



**WSR 97-08-073**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Division of Alcohol and Substance Abuse)  
 (Public Assistance)  
 [Filed April 2, 1997, 8:17 a.m.]

Supplemental Notice to WSR 97-02-009.

Preproposal statement of inquiry was filed as WSR 96-22-027.

**Title of Rule:** Certification requirements for chemical dependency treatment service providers.

**Purpose:** (1) Amend chapter 440-22 WAC sections and add new sections necessary to redefine the terms chemical dependency (CD) counselor and CD intern and add requirement to obtain "certification of qualification" and "letter of enrollment" respectively. (2) Amend chapter 440-22 WAC sections necessary to add the requirement for certified CD programs to adopt the patient placement criteria published by the American Society of Addiction Medicine (ASAM) as the standard for patient admissions, continuing care, transfers, and discharges. (3) Amend WAC 440-22-005, 440-22-225, 440-22-230, 440-22-310, and 440-22-335 to correct language or further explain the current regulations.

**Statutory Authority for Adoption:** RCW 70.96A.040 and [70.96A].090.

**Statute Being Implemented:** Chapter 70.96A RCW.

**Summary:** Supplemental filed to add additional language (WAC 440-22-253) to describe counselor/intern application process.

**Reasons Supporting Proposal:** (1) and (2) described in "Purpose" section are drafted and proposed at request of several chemical dependency provider associations.

**Name of Agency Personnel Responsible for Drafting:** Division of Alcohol and Substance Abuse, Gary Reynolds, Lacey, Washington, (360) 438-8054; **Implementation and Enforcement:** Division of Alcohol and Substance Abuse, Certification Section, Lacey, Washington, (360) 438-8052.

**Name of Proponent:** Margaret Jones, President, Association of Alcoholism and Addictions Programs; Don Thomas, President, Washington State Association of Independent Outpatient Programs; John Horngren, Chairman, Washington State Adolescent Chemical Dependency Treatment Providers; Leo Whiteford, Chairman, Northwest Indian Council on Chemical Dependency, and Northwest Indian Alcohol/Drug Specialist Certification Board; Diane Hall, President, Chemical Dependency Professionals of Washington State; Lanny Minuto, President, Chemical Dependency Counselor Certification Board; and Tom Armstrong, President, Northwest Chapter, National Association of Addiction Treatment Providers, private; and Department of Social and Health Services, Division of Alcohol and Substance Abuse, governmental.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** (1) Amendments will require CD counselor interns to obtain a "letter of enrollment" and CD counselors to obtain a "certificate of qualification" from the department which provides evidence that they meet the minimum respective standards described in chapter 440-22 WAC and are thereby qualified to work in state-approved CD pro-

grams. The changes will place responsibility for obtaining these credentials on the interns and counselors. This change will benefit all concerned (counselors, administrators, and Division of Alcohol and Substance Abuse program auditors) by (a) reducing the large amount of paperwork currently required in agency personnel files to provide evidence interns and counselors meet the qualification requirements; and (b) will provide a single page credential that interns and counselors can provide to certified CD program employers attesting they are qualified to work in state-approved CD treatment facilities. New sections are added to provide the rules for denial, expiration, suspension, or revocation of CD counselor certificate of qualification. This is necessary for the provision of due process. The amendment to add the knowledge exam and supervisor/peer review will bring the WAC standard into agreement with standards currently used by this state's private CD certification boards and by national CD certification boards. This addition provides additional tools for professional quality assurance by asking CD counselors to pass a knowledge exam and provide supervisor and peer counselor's attestation to the counselor's competency. A grandparenting section is included excluding currently qualified counselors from the knowledge exam requirement. **SUPPLEMENTAL:** Adds CIs to grandparenting process (WAC 440-22-250). WAC 440-22-253 adds procedures for acquiring the letters of enrollment and certificate of qualification. Makes other minor cleanup changes.

(2) Amendments add a requirement for all state certified CD treatment programs to adopt and use the patient placement criteria published by the American Society of Addiction Medicine (ASAM) in making patient decisions for admission placement, continuing care, transfer, and discharge. This will provide Washington state's CD treatment programs with a nationally recognized, state of the art, criteria for making these decisions in line with several other states in the nation. Currently, there is no common standard being employed leaving patients and clinicians alike vulnerable to inappropriate placement, continuing care, transfer and discharge decisions. The ASAM standards are considered the most widely accepted criteria available within the CD field and will provide a "common language" for all professionals working in state-approved CD programs. No changes made to these sections in supplemental filing. **SUPPLEMENTAL:** No changes.

(3) Amendment to WAC 440-22-005(47), (definition for "vulnerable adult") brings the definition into conformance with a recent change in this definition in RCW 43.43.830; WAC 440-22-225 adds wording to clarify acceptable training and work experience for probation assessment officers; WAC 440-22-230 removes a date reference for youth chemical dependency counselors that has passed; WAC 440-22-310 (2)(i) changes the current placement for the requirement for "patient redisclosure statement" into its own subsection. This will help mitigate confusion that the current placement of this wording in the WAC has caused; and WAC 440-22-335(3) adds wording to clarify this requirement. **SUPPLEMENTAL:** Adds definition to WAC 440-22-005 for CD Counselor Certification Board and separates youth chemical dependency counselor definition into a separate definition.

**Proposal Changes the Following Existing Rules:** (1) Amends chemical dependency (CD) counselor qualification

standards in WAC 440-22-005, 440-22-180, 440-22-200, 440-22-220, 440-22-225, 440-22-230, 440-22-240, and 440-22-250 by adding a knowledge exam and supervisor/peer review process; amending the definitions sections for CD counselors and CD interns and other sections describing requirements and process for obtaining "certificate of qualification" and "letter of endorsement" for CD counselors and CD interns respectively; adds new sections WAC 440-22-253, 440-22-255, and 440-22-257 to the chapter describing denial, expiration, suspension, or revocation of CD intern/counselor letter or endorsement/certificate of qualification.

(2) Amends WAC 440-22-005, 440-22-300, 440-22-320, 440-22-325, and 440-22-335 by adding a requirement for certified treatment agencies to use patient placement criteria published by the American Society of Addiction Medicine (ASAM) as the standard for making admission placement, continuing care, transfer, and discharge decisions.

(3) Amends the following sections of chapter 440-22 WAC to correct or clarify language: WAC 440-22-005, definition for "vulnerable adult" to bring it into conformance with an amendment to this definition in RCW 43.43.830; WAC 440-22-225, adding clarification language; WAC 440-22-230, removing an effective date that has been passed; WAC 440-22-310 (2)(i), corrected to clarify rule; and WAC 440-22-335(3), add additional explanatory language.

A small business economic impact statement has been prepared under chapter 19.85 RCW. No change in the small business economic impact statement from that published in WSR 97-02-009 for original submission of these amendments.

A copy of the statement may be obtained by writing to Gary Reynolds, WAC Coordinator, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 438-8054, FAX (360) 438-8057, e-mail/Internet reynogl@dshs.wa.gov.

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

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on May 27, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin, Rules Coordinator, by May 13, 1997, (360) 902-7540 voice or TDD (360) 902-8324 or (360) 902-8317.

Submit Written Comments to and Include WAC Numbers: Leslie Baldwin, Rules Coordinator, Rules and Policy Assistance Unit, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, e-mail lbaldwin@dshs.wa.gov, FAX (360) 902-8292, by May 27, 1997.

Date of Intended Adoption: No sooner than May 28, 1997.

April 1, 1997  
Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-03-062, filed 1/13/97, effective 2/13/97)

**WAC 440-22-005 Definitions.** Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter:

((+)) **"Administrator"** means the person designated responsible for the operation of the certified treatment service;

((2)) **"Adult"** means a person eighteen years of age or older. **"Young adult"** means an adult who is not yet twenty-one years of age;

((3)) **"Alcoholic"** means a person who has the disease of alcoholism;

((4)) **"Alcoholism"** means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. It is characterized by impaired control over drinking, preoccupation with the drug alcohol, use of alcohol despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic;

((5)) **"Authenticated"** means written, permanent verification of an entry in a patient treatment record by means of an original signature including first initial, last name, and professional designation or job title, or initials of the name if the file includes an authentication record, and the date of the entry;

((6)) **"Authentication record"** means a document which is part of a patient's treatment record, with legible identification of all persons initialing entries in the treatment record, and includes:

((a)) (1) Full printed name;

((b)) (2) Signature including the first initial and last name; and

((c)) (3) Initials and abbreviations indicating professional designation or job title.

((7)) **"Bloodborne pathogens"** means pathogenic microorganisms that are present in human blood and can cause disease in humans. The pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV);

((8)) **"Branch service site"** means a physically separate certified unit where qualified staff provide a certified treatment service and are governed by a parent organization;

((9)) **"Certified treatment service"** means a discrete program of chemical dependency treatment offered by a service provider who has a certificate of approval from the department of social and health services, as evidence the provider meets the standards of chapter 440-22 WAC;

((10)) **"Chemical dependency"** means a person's alcoholism or drug addiction or both;

((11)) **"Chemical dependency counseling"** means face-to-face individual or group contact using therapeutic techniques and:

((a)) (1) Led by a chemical dependency counselor (CDC), youth chemical dependency counselor (YCDC) or a CDC intern under direct CDC supervision;

((b)) (2) Directed toward patients and others who are harmfully affected by the use of mood-altering chemicals or are chemically dependent; and

~~((e))~~ (3) Directed toward a goal of abstinence for chemically dependent persons.

~~((12))~~ "**Chemical dependency counselor (CDC)**" means a ~~((person registered, certified, or exempted by the state department of health, and qualified as a CDC as))~~ person who has obtained a certificate of qualification from the department affirming the person has met the counselor qualification requirements described under WAC 440-22-240 ~~((Categories of chemical dependency counselors include:~~

~~(a) "Assessment officer" which means a person employed at a certified district or municipal court treatment program who meets WAC 440-22-225 requirements or is grandparented as meeting those requirements;~~

~~(b) "Youth chemical dependency counselor" which means a person who meets WAC 440-22-230 requirements.~~

~~((13))~~; "**Chemical dependency counselor certification board (CCB)**" means a chemical dependency counselor certification board working under an agreement with the department to verify the qualifications of counselors as authorized by RCW 70.96A.040(3);

"**Chemical dependency counselor ((CDC)) intern (CI)**" means a person who ~~((meets the standards for CDC interns))~~ has obtained a letter of enrollment from the department affirming the person has met the CI qualification requirements described under WAC 440-22-200 and ~~((440-22-220, and))~~ is ~~((supervised by a CDC))~~ working under supervision in a certified treatment agency ~~((s))~~ toward internship completion as described under WAC 440-22-210 and 440-22-220;

~~((14))~~ "**Child**" means a person less than eighteen years of age, also known as adolescent, juvenile, or minor;

~~((15))~~ "**County coordinator**" means the person designated by the chief executive officer of a county to carry out administrative and oversight responsibilities of the county chemical dependency program;

~~((16))~~ "**Criminal background check**" means a search by the Washington state patrol for any record of convictions or civil adjudication related to crimes against children or other persons, including developmentally disabled and vulnerable adults, per RCW 43.43.830 through 43.43.842 relating to the Washington state patrol;

~~((17))~~ "**Danger to self or others,**" for purposes of WAC 440-22-406, means a youth residing in a chemical dependency treatment agency who creates a risk of serious harm to the health, safety, or welfare to self or others. Behaviors considered a danger to self or others include:

~~((a))~~ (1) Suicide threat or attempt;

~~((b))~~ (2) Assault or threat of assault; or

~~((e))~~ (3) Attempt to run from treatment, potentially resulting in a dangerous or life-threatening situation.

~~((18))~~ "**Department**" means the Washington state department of social and health services;

~~((19))~~ "**Detoxification**" or "**detox**" means care and treatment of a person while the person recovers from the transitory effects of acute or chronic intoxication or withdrawal from alcohol or other drugs;

~~((20))~~ "**Disability, person with a**" means a person who:

~~((a))~~ (1) Has a physical or mental impairment that substantially limits one or more major life activities of the person;

~~((b))~~ (2) Has a record of such an impairment; or

~~((e))~~ (3) Is regarded as having such an impairment.

~~((21))~~ "**Discrete treatment service**" means a chemical dependency treatment service that:

~~((a))~~ (1) Provides distinct chemical dependency supervision and treatment separate from other services provided within the facility;

~~((b))~~ (2) Provides a separate treatment area for ensuring confidentiality of chemical dependency treatment services; and

~~((e))~~ (3) Has separate accounting records and documents identifying the provider's funding sources and expenditures of all funds received for the provision of chemical dependency services.

~~((22))~~ "**Domestic violence**" means:

~~((a))~~ (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; ~~((e))~~

~~((b))~~ (2) Sexual assault of one family or household member by another;

(3) Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member; or

(4) As defined in RCW 10.99.020, RCW 26.50.010, or other Washington state statutes.

~~((23))~~ "**Drug addiction**" means a primary, chronic disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. The disease is often progressive and fatal. Drug addiction is characterized by impaired control over use of drugs, preoccupation with drugs, use of a drug despite adverse consequences, and distortions in thinking, most notably denial. Each of these symptoms may be continuous or periodic;

~~((24))~~ "**First Steps**" means a program available across the state for low-income pregnant women and their infants. First Steps provides maternal and child health care and support services;

~~((25))~~ "**Governing body**" means the legal entity responsible for the operation of the chemical dependency treatment service;

~~((26))~~ "**HIV/AIDS brief risk intervention (BRI)**" means an individual face-to-face interview with a client or patient, to help that person assess personal risk for HIV/AIDS infection and discuss methods to reduce infection transmission;

~~((27))~~ "**HIV/AIDS education**" means education, in addition to the brief risk intervention, designed to provide a person with information regarding HIV/AIDS risk factors, HIV antibody testing, HIV infection prevention techniques, the impact of alcohol and other drug use on risks and the disease process, and trends in the spread of the disease;

~~((28))~~ "**Medical practitioner**" means a physician, certified nurse practitioner, or certified physician's assistant. Nurse practitioners and midwives with prescriptive authority may perform practitioner functions related only to indicated specialty services;

~~((29))~~ "**Misuse**" means use of alcohol or other drugs by a person in:

~~((a))~~ (1) Violation of any law; or

~~((b))~~ (2) Breach of agency policies relating to the drug-free work place.

~~((30))~~ "Off-site treatment" means provision of treatment by a certified provider at a location where treatment is not the primary purpose of the site;

~~((31))~~ "Opiate dependency treatment agency" means an organization that administers or dispenses an approved drug as specified in 212 CFR Part 291 for treatment or detoxification of opiate dependency. The agency is:

~~((a))~~ (1) Approved by the Federal Food and Drug Administration;

~~((b))~~ (2) Registered with the Federal Drug Enforcement Administration;

~~((c))~~ (3) Licensed by the county in which it operates; and

~~((d))~~ (4) Certified as an "opiate dependency treatment agency" by the department.

~~((32))~~ "Patient" is a person receiving chemical dependency treatment services from a certified program;

~~((33))~~ "Patient contact" means counselor time spent with a client or patient to do assessments, individual or group counseling, or education;

~~((34))~~ "Patient placement criteria (PPC)" means the Patient Placement Criteria for the Treatment of Substance-Related Disorders as published and revised by the American Society of Addiction Medicine (ASAM);

"Probation assessment officer (PAO)" means a person employed at a certified district or municipal court probation assessment service who meets the PAO requirements of WAC 440-22-225 and 440-22-240;

"Probation assessment service" means a certified assessment service offered by a misdemeanor probation department or unit within a county or municipality;

~~((35))~~ "Progress notes" are a permanent record of ongoing assessments of a patient's participation in and response to treatment, and progress in recovery;

~~((36))~~ "Registered counselor" means a person registered, or certified by the state department of health as required by chapter 18.19 RCW;

"Restraint," for purposes of WAC 440-22-406, means the use of methods, by a trained staff person, to prevent or limit free body movement in the event of out-of-control behavior. "Restraint" includes:

~~((a))~~ (1) Containment or seclusion in an unlocked quiet room;

~~((b))~~ (2) Physical restraint, meaning a person physically holds or restricts another person in a safe manner for a short time in an immediate crisis; or

~~((c))~~ (3) Use of a safe and humane apparatus which the person cannot release by oneself.

~~((37))~~ "Service provider" or "provider" means a legally operated entity certified by the department to provide chemical dependency treatment services. The components of a service provider are:

~~((a))~~ (1) Legal entity/owner;

~~((b))~~ (2) Facility; and

~~((c))~~ (3) Staff and services.

~~((38))~~ "Sexual abuse" means sexual assault, incest, or sexual exploitation;

~~((39))~~ "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

~~((a))~~ (1) Submission to such conduct is made either explicitly or implicitly a term or condition of employment or treatment;

~~((b))~~ (2) Such conduct interferes with work performance or creates an intimidating, hostile, or offensive work or treatment environment.

~~((40))~~ "Substance abuse" means a recurring pattern of alcohol or other drug use which substantially impairs a person's functioning in one or more important life areas, such as familial, vocational, psychological, physical, or social;

~~((41))~~ "Summary suspension" means an immediate suspension of certification, per RCW 34.05.422(4), by the department pending administrative proceedings for suspension, revocation, or other actions deemed necessary by the department;

~~((42))~~ "Supervision" means:

~~((a))~~ (1) Regular monitoring of the administrative, clinical, or clerical work performance of a staff member, intern, student, volunteer, or employee on contract by a person with the authority to give directions and require change; and

~~((b))~~ (2) "Direct supervision" means the supervisor is on the premises and available for immediate consultation.

~~((43))~~ "Suspend" means termination of the department's certification of a provider's treatment services for a specified period or until specific conditions have been met and the department notifies the provider of reinstatement;

~~((44))~~ "Treatment services" means the broad range of emergency, detoxification, residential, and outpatient services and care. Treatment services include diagnostic evaluation, chemical dependency education, individual and group counseling, medical, psychiatric, psychological, and social services, vocational rehabilitation and career counseling which may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other drugs, and intoxicated persons;

~~((45))~~ "Urinalysis" means analysis of a patient's urine sample for the presence of alcohol or controlled substances by a licensed laboratory or a provider who is exempted from licensure by the department of health;

~~((a))~~ (1) "Negative urine" is a urine sample in which the lab does not detect specific levels of alcohol or other specified drugs; and

~~((b))~~ (2) "Positive urine" is a urine sample in which the lab confirms specific levels of alcohol or other specified drugs.

~~((46))~~ "Vulnerable adult" means a person ~~((sixty years of age or older))~~ who ~~((has))~~ lacks the functional, mental, or physical ~~((in))~~ability to care for oneself.

~~((47))~~ "Youth" means a person seventeen years of age or younger;

"Youth chemical dependency counselor (YCDC)" means a person who has obtained a certificate of qualification from the department affirming the person has met the YCDC qualification requirements described under WAC 440-22-230 and 440-22-240.

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 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-180 Personnel files.** (1) The administrator shall ensure there is a current personnel file for each employee, intern, student, volunteer, and contract staff person providing or supervising patient care which includes:

(a) Verification of qualifications for the assigned position;

(b) A copy of the current job description or agreement;

(c) A record of orientation;

(d) Documentation of training on bloodborne pathogens, including HIV/AIDS and hepatitis B, except for contract employees;

(e) Documentation of current cardiopulmonary resuscitation (CPR) and first aid training for at least one person on each shift in a residential facility;

(f) Written performance evaluations for each year of employment;

(g) A copy of the results of a tuberculin skin test or evidence the person has completed a course of treatment approved by a physician or local health officer if the results are positive;

(h) Documentation of health department training and approval for any staff administering or reading a TB test; and

(i) A signed and dated commitment to maintain confidentiality.

(2) Each ~~((qualified))~~ chemical dependency counselor (CDC), probation assessment officer, intern, and information school instructor shall provide sufficient evidence to determine whether each person has the training and education necessary to meet and maintain qualified status required under WAC 440-22-200 through 440-22-280. The personnel file shall include:

(a) For CDCs: A copy of a current certificate of qualification issued by the department affirming the CDC meets the qualifying standards of WAC 440-22-240;

(b) For CDC interns (CI): A copy of a letter of enrollment issued by the department or its designee affirming the CI meets the qualifying standards of WAC 440-22-200;

(c) For probation assessment officers and information school instructors: Sufficient evidence to determine whether each probation assessment officer or intern, and information school instructor has the training and education necessary to meet the qualifying standards of WAC 440-22-240(2) and 440-22-270 respectively;

(d) The date the person became a ~~((qualified counselor or))~~ probation assessment officer, or information school instructor;

~~((b))~~ (e) A copy of a current license, certificate, or registration with the department of health for all ~~((counselors and counselor interns, and all))~~ CDCs, CIs and other persons requiring such documentation to practice; and

~~((e))~~ (f) If an employee is a ~~((counselor intern))~~ CI or probation assessment officer intern, the file shall also contain:

(i) The date training began;

(ii) The education and training plan;

(iii) A copy of the counselor intern's quarterly review;

(iv) Documentation of four hours tutoring per month;

and

(v) The name of the supervising ~~((counselor))~~ CDC or probation assessment officer.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-200 Chemical dependency counselor ~~((CDC))~~ intern (CI) eligibility.** To become a ~~((CDC intern))~~ CI in a certified chemical dependency treatment program, and before performing functions of a ~~((CDC intern))~~ CI, a person shall obtain a letter of enrollment from the department that affirms the person meets the following qualifications. The person:

(1) ~~((Not have a))~~ Has no history of alcohol or other drug misuse:

(a) For a period of two years immediately before the person ~~((is assigned as a CDC intern))~~ applies for CI enrollment; and

(b) Throughout the time of the internship.

(2) ~~((Have))~~ Has obtained nine quarter or six semester credits from an accredited college or university, with a minimum of three quarter or two semester credits in each of the following distinct course topic areas:

(a) Survey of chemical dependency;

(b) Physiological actions of alcohol and other drugs; and

(c) Chemical dependency counseling techniques.

(3) ~~((Be))~~ Is registered or certified as a counselor with the department of health ~~((, or have a written statement of exemption from the department of health))~~ under chapter 18.19 RCW.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-220 Chemical dependency counselor intern~~((ship))~~ (CI) completion.** To complete ~~((chemical dependency counselor (CDC))~~ CI internship, a person shall:

(1) Obtain ~~((an additional))~~ a two-year degree, or its academic equivalent, from an accredited college or university. The course work shall include all WAC 440-20-200 academic requirements and the course work listed in (a) and (b) of this subsection.

(a) Twenty-four quarter or sixteen semester credits from an accredited college or university which includes a minimum of three quarter or two semester credits in distinct courses in the following three topic areas:

~~((a))~~ (i) Group process in chemical dependency treatment;

~~((b))~~ (ii) Chemical dependency in the family; and

~~((e))~~ (iii) Case management and record keeping for chemically dependent patients.

~~((2))~~ (b) The remainder of the twenty-four quarter or sixteen semester credits noted in subsection ~~((1))~~ (a) of this section shall include distinct courses in the following topic areas:

~~((a))~~ (i) Ethics in chemical dependency treatment;

~~((b))~~ (ii) Chemical dependency and the laws;

~~((e))~~ (iii) Human growth and development; and

~~((d))~~ (iv) Introductory or general psychology.

~~((3))~~ (2) Obtain ~~((an additional))~~ one hundred eighty hours of state-approved training or equivalent credit from an accredited college or university in workshops or courses that address the following topic areas:

- (a) Relapse prevention;
- (b) Youth chemical dependency assessment and counseling;
- (c) Cultural awareness;
- (d) HIV/AIDS brief risk intervention for CDCs, as approved by the department; and
- (e) Other workshops or courses that will enhance skills as a chemical dependency counselor.

~~((4) Have)~~ (3) Complete ~~((d))~~ two thousand clock hours of directly supervised experience as a ~~((CDC intern))~~ (CI) in a state-certified chemical dependency treatment agency. The internship shall include a minimum of one hundred sixty hours in each of the following clinical areas:

- (a) Conducting assessments;
- (b) Individual counseling; and
- (c) Group counseling.

~~((5) Have a two year degree, or its academic equivalent, from an accredited college or university effective February 1, 1997. The CDC's course work shall include all WAC 440-20-200 and 440-22-220 academic requirements.))~~

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-225 Probation assessment officer interns.** A probation assessment officer intern shall:

(1) Be employed as a probation officer at a misdemeanor probation department or unit within a county or municipality;

(2) Meet the requirements for a chemical dependency counselor, as described under WAC 440-22-200 and 440-22-220;

(3) Be considered as meeting WAC 440-22-220 (1)(a) and ~~((2))~~ (1)(b) requirements if the probation assessment officer intern has a bachelor's or graduate degree in a social or health sciences field;

(4) Be considered as meeting WAC 440-22-220(2) by obtaining the one hundred eighty additional hours in training or courses in areas that will enhance skills as a probation assessment officer;

(5) Be considered as meeting WAC 440-22-220(3) by applying all probation officer work experience toward the required two thousand hours, and four hundred eighty hours of assessment experience may be applied in lieu of one hundred sixty hours of individual and one hundred sixty hours of group counseling experience.

(6) Be directly supervised and tutored by a ~~((qualified))~~ probation assessment officer who shall:

(a) Develop and maintain an individualized education and training plan to bring the intern to ~~((qualified))~~ probation assessment officer status, including:

(i) Orientation to the various laws and regulations that apply to the delivery of chemical dependency assessment and treatment services;

(ii) Instruction in assessment methods;

(iii) Instruction on standards of professional conduct and ethics; and

(iv) Observation of the intern conducting assessments.

(b) Document an evaluation of the progress of each intern at least quarterly.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-230 Youth chemical dependency counselor (YCDC) interns.** (1) ~~((Effective February 1, 1996, a youth))~~ A YCDC intern shall meet WAC 440-22-200 and 440-22-220 requirements; except, the ((youth)) YCDC intern shall obtain work experience as follows:

(a) If the person is not yet a CDC, one thousand of the two thousand hours of work experience shall be in a certified program where the majority of the experience is in providing youth chemical dependency treatment; or

(b) If the person is already a CDC and had two thousand hours of required CDC work experience, another one thousand hours in a counseling capacity in other youth settings may satisfy the youth experience requirement.

(2) In addition to the internship completion requirements of WAC 440-22-220, ~~((youth))~~ YCDC interns shall attain five quarter or three semester academic credits, or seventy-five department-approved clock hours of continuing education covering the following topic areas:

(a) Adolescent assessment;

(b) Adolescent and child development; and

(c) Assessing and treating culturally diverse youth.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-240 ((Maintaining)) Chemical dependency counselor (CDC), probation assessment officer, and youth chemical dependency counselor (YCDC) qualification.** (1) To be and remain a CDC or YCDC, a person shall obtain a certificate of qualification from the department that affirms that the person:

(a) ~~((Not have a))~~ Has no history of alcohol or other drug misuse for a period of three years before ~~((employment as a))~~ application for CDC or YCDC certificate of qualification;

(b) ~~((Not))~~ Displays no evidence of misuse of alcohol or other drugs while a CDC or YCDC;

(c) ~~((Be))~~ Is registered or certified as a counselor with the department of health under chapter 18.19 RCW ~~((or have a written statement of exemption from the department of health));~~

(d) ~~((Have))~~ Has completed all requirements for a CDC ~~((or probation assessment officer))~~ or YCDC intern; ~~((and))~~

(e) ~~((Have))~~ Has successfully passed a chemical dependency counselor knowledge exam and an oral interview approved by the department;

(f) Has provided the department or its designee one letter, completed by the person's most recent supervisor, endorsing the person's competency and competence evaluations prepared by three chemical dependency counselors able to attest to the person's current competency as a counselor. These documents must be from four different persons; and

(g) Has completed sixty clock hours of continuing education;

(i) During each two calendar-year period beginning ~~((in January of the year))~~ on the day following the initial qualification; and

(ii) In subject areas that increase knowledge and skills in counseling and aiding chemically dependent persons and

their families in recovery, and increase knowledge of special populations and their issues.

(2)(a) To be and remain a probation assessment officer, the person shall complete all requirements for a probation assessment officer ((shall obtain continuing education)) intern; and

(b) Have completed sixty clock hours of continuing education:

(i) During each two calendar year period beginning on the day following the probation assessment officer's birthdate; and

(ii) In subject areas intended to increase knowledge and skills in assessing, diagnosing, and referring a chemically dependent person and the person's family to appropriate treatment resources.

(3) A ((youth)) YCDC shall include youth specific or related training as twenty or more of the required sixty hours of continuing education.

(4) Effective date. CDCs, YCDCs, CIs and probation assessment officers must meet these standards by July 1, 1998 to remain qualified.

AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

WAC 440-22-250 Grandparenting. (1) For chemical dependency counselors. The department ((shall deem a chemical dependency counselor (CDC), probation assessment officer, or youth CDC as having fulfilled respective)) may issue a certificate of qualification to an applicant if the person fulfills the requirements ((when a person was)) for grandparented qualification in accordance with WAC 440-22-253. Grandparented certificates of qualification are available to persons:

((1)) (a) Qualified as a CDC ((or probation assessment officer)) by January 31, 1996, under WAC 275-19-145 requirements which were repealed with the adoption of chapter 440-22 WAC((-

(2));

(b) Qualified as a CDC ((or probation assessment officer)) by January 31, 1997, under WAC 440-22-200 and WAC 440-22-220(1) through 440-22-220(4) requirements; or

((3)) (c) Qualified as a ((youth)) YCDC by January 31, 1997, when a person was qualified as a CDC under subsection (1) or (2) of this section and had:

((4)) (i) One thousand hours of the two thousand required hours of work experience in a certified program where the majority of the experience was in providing youth chemical dependency treatment; or

((5)) (ii) In addition to the two thousand hours of required CDC work experience, one thousand hours in a counseling capacity in other youth settings.

(2) Grandparented certificates of qualification shall be available only to CIs, CDCs, and YCDCs who apply for such on applications postmarked prior to March 1, 1998.

(3) CIs that have fulfilled all requirements in WAC 440-22-200 and 440-22-220 in effect February 1, 1997 by June 1, 1998, are eligible for grandparented certificate of qualification without taking the knowledge exam or obtaining the supervisor/peer competency evaluations as specified in WAC 440-22-240 (1)(e) and (f).

(4) For probation assessment officers (PAO): The department may deem a PAO as having fulfilled respective qualification requirements when a person was:

(a) Qualified as a PAO by January 31, 1996, under WAC 275-19-145 requirements which were repealed with the adoption of chapter 440-22 WAC;

(b) Qualified as a PAO by January 31, 1997, under WAC 440-22-200 and 440-22-220 (1) through (4) requirements.

#### NEW SECTION

WAC 440-22-253 Application process for chemical dependency counselor intern (CI) enrollment, chemical dependency counselor (CDC), and youth chemical dependency counselor (YCDC) certificate of qualification and requalification. (1) Persons seeking CI enrollment or CDC and YCDC certificate of qualification shall apply to a chemical dependency counselor certification board (CCB) under agreement with the department to monitor verification of qualifications of counselors employed by certified chemical dependency treatment programs as authorized by chapter 70.96A.040(3) RCW.

(2) Applicants shall comply with instructions from the respective board by:

(a) Completing an application form and providing all information and documentation requested by the board to confirm the applicant has met the respective qualification standards described under WAC 440-22-200, 440-22-220, 440-22-230, 440-22-240 and 440-22-250;

(b) Paying processing fees;

(c) For initial CDC or YCDC qualification, taking the knowledge exam and participating in an oral interview as required under WAC 440-22-240 (1)(e).

(3) Persons making application through grandparenting under the provisions of WAC 440-22-250 are not required to complete the knowledge exam, oral interview, or submit the competence reviews required in WAC 440-22-240 (1)(e) and (f).

(4) All requests by applicants for exemptions to the requirements for CI enrollment or CDD or YCDC certificate or qualification shall be forwarded by the CCB to the department. The request shall include the CCB's recommendation for approval or denial. The CCB shall provide a copy of the exemption request to the applicant.

(5) Exemption requests shall be reviewed by the department with notice regarding the decision to approve or deny the request returned to the respective CCB.

(6) Upon completion of the review and assessment of the applicant's application package and the testing and interview process, the CCB shall:

(a) Forward a recommendation for CI enrollment or CDC or YCDC certificate of qualification to the department for applicants determined as meeting the respective standards. The CCB shall provide a copy of the recommendation to the applicant;

(b) Provide applicants determined as not meeting the respective standards with the specific deficiencies found in their application and describe what steps are necessary for the applicant to meet the standards.

(7) The department shall review recommendations for CI enrollment or CDC or YCDC letter of qualification

provided by the CCBs and if determined satisfactory may issue the appropriate credential to the applicant by mail.

(8) Certificates of qualification shall be valid for two years. It is the responsibility of the CDC or YCDC to renew the certificate of qualification in accordance with instructions and notification provided by the CCB.

(9) It is the responsibility of the CI, CDC, or YCDC to notify the department of any change of the address provided to the CCB. Such notification may be made by telephone, facsimile, or by mail.

(10) Practicing counseling with an expired certificate of qualification is a violation of requirements in WAC 440-22-175 (1) and (2), and 440-22-180(2).

(11) The applicant may appeal department decisions in accordance with chapter 34.05 RCW, the Washington Administrative Procedure Act.

#### NEW SECTION

**WAC 440-22-255 Denial of chemical dependency intern (CI) enrollment, chemical dependency counselor (CDC) or youth chemical dependency (YCDC) certificate of qualification.** (1) The department shall consider the ability of each person making application for CI enrollment or CDC or YCDC certificate of qualification to perform in accord with this chapter before the department enrolls a CI or grants or renews the certificate for a CDC or YCDC.

(2) The department may deny or place restrictions on an applicant's letter or certificate when any of the following conditions occur and are not satisfactorily resolved, or when any applicant:

(a) Had a license, certification or registration for practicing as a counselor or other health care professional denied, revoked, or suspended;

(b) Obtained or attempted to obtain a license, certification, or registration by fraudulent means or misrepresentation;

(c) Committed, permitted, aided, or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180;

(d) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient;

(e) Misappropriated patient property or resources;

(f) Has a history of noncompliance with state or federal regulations in an agency with which the applicant has been affiliated;

(g) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:

(i) The application or attached materials; or

(ii) Any matter under department investigation.

(h) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;

(3) The department may deny CI enrollment or a CDC or YCDC certificate of qualification when an applicant:

(a) Fails to provide satisfactory application materials;

(b) Fails to pay required fees; or

(c) Advertises him or herself as being in possession of a state certificate of qualification when a certificate of

qualification has not been granted, or has been denied, revoked, or has expired.

(4) The applicant may appeal department decisions in accordance with chapter 34.05 RCW, the Washington Administrative Procedure Act.

#### NEW SECTION

**WAC 440-22-257 Chemical dependency counselor intern (CI), chemical dependency counselor (CDC), and youth chemical dependency counselor (YCDC) suspension or revocation of letter of enrollment or certificate of qualification.** (1) The department may suspend or revoke a CI's letter of enrollment or a CDC's or YCDC's certificate of qualification when a disqualifying situation described under WAC 440-22-255 applies to a CI, CDC, or YCDC or when any of the following circumstances occur:

(a) Violation of a rule threatens or results in harm to a patient;

(b) A reasonably prudent person should have been aware of a condition resulting in violation of a law or rule;

(c) A person failed to investigate or take corrective or preventive action to deal with a suspected or identified patient care problem;

(d) The person fails to satisfactorily comply with a findings of fact and conclusion of law order issued by the department of health pursuant to chapter 18.19 RCW.

(2) Practicing counseling with a suspended or revoked certificate of qualification is in violation of requirements under WAC 440-22-175 (1) and (2), and 440-22-180(2).

#### AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-260 Students.** (1) The treatment provider shall have a written agreement with each education agency wanting to use the treatment agency as a setting for student practice.

(2) The treatment provider shall ensure the written agreement describes the nature and scope of student activity at the treatment setting and ensures supervision of student activities.

(3) Each student and academic supervisor shall sign a confidentiality statement which the provider shall retain.

(4) A student may serve as a chemical dependency counselor intern provided the student meets WAC 440-22-200 and 440-22-210 requirements.

(5) When a student is under supervision of a college, the department shall apply both the academic credits and supervised field experience toward the requirements of WAC 440-22-200 and 440-22-220.

#### AMENDATORY SECTION (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-280 Volunteers.** (1) Each volunteer offering assistance to a provider shall be oriented as required under WAC 440-22-175 (13), (14), and (15), of the personnel manual.

(2) A volunteer shall meet the qualifications of the position to which the person is assigned.

(3) A volunteer may provide counseling services when the person meets the requirements for a chemical dependency counselor intern or is a chemical dependency counselor.

**AMENDATORY SECTION** (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-300 Clinical manual.** Each chemical dependency service provider shall have and adhere to a clinical manual containing patient care policies and procedures, including:

(1) How the provider meets WAC 440-22-310 through 440-22-335 requirements;

(2) How the provider will meet applicable certified treatment service requirements of WAC 440-22-350 through 440-22-620, including a description of each service offered, detailing:

(a) The number of hours of treatment and education for each certified treatment service; and

(b) Allowance of up to twenty percent of education time to consist of film or video presentations.

(3) Identification of resources and referral options so staff can make referrals required by law and as indicated by patient needs;

(4) Assurance that the clinical supervisor:

(a) Is a chemical dependency counselor (CDC);

(b) Reviews a sample of patient records of each CDC quarterly; and

(c) Implements treatment, continuing care, transfer and discharge plans in accord with WAC 440-22-325.

(5) Patient admission and discharge criteria in accord with patient placement criteria (PPC):

(a) The administrator shall not admit or retain a person unless the person's treatment needs can be met;

(b) A chemical dependency counselor (CDC) shall assess and refer each patient to the appropriate treatment service; and

(c) A person needing detoxification shall immediately be referred to a detoxification provider, unless the person needs acute care in a hospital.

(6) Tuberculosis screening for prevention and control of TB in all detox, residential, and outpatient programs, including:

(a) Obtaining a history of preventive or curative therapy;

(b) Screening and related procedures for coordinating with the local health department; and

(c) Implementing TB control as provided by the department of health TB control program.

(7) HIV/AIDS information, brief risk intervention, and referral;

(8) Limitation of group counseling sessions to twelve patients or less;

(9) Counseling sessions with nine to twelve youths to include a second adult staff member;

(10) Provision of education to each patient on:

(a) Alcohol and alcoholism;

(b) Drugs and drug addiction;

(c) Relapse prevention; and

(d) HIV/AIDS, hepatitis, and TB.

(11) Provision of education or information to each patient on:

(a) The impact of chemical use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy;

(b) Emotional, physical, and sexual abuse; and

(c) Nicotine addiction.

(12) An outline of each lecture and education session included in the service, sufficient in detail for another trained staff person to deliver the session in the absence of the regular instructor;

(13) Assigning of work to a patient by a CDC when the assignment:

(a) Is part of the treatment program; and

(b) Has therapeutic value.

(14) Use of self-help groups;

(15) Patient rules and responsibilities, including disciplinary sanctions for noncomplying patients;

(16) If youth are admitted, a policy and procedure for assessing the need for referral to child welfare services;

(17) Implementation of the deferred prosecution program;

(18) Policy and procedures for reporting status of persons convicted under chapter 46.61 RCW to the department of licensing; and

(19) Nonresidential providers shall have policies and procedures on:

(a) Medical emergencies;

(b) Suicidal and mentally ill patients;

(c) Medical oversight, including provision of a physical examination by a medical practitioner, on a person who:

(i) Is dependent on barbiturates or benzodiazepines; or

(ii) Used intravenous drugs in the thirty days before admission.

(d) Laboratory tests;

(e) Services and resources for pregnant women:

(i) A pregnant women who is not seen by a private physician shall be referred to a physician or the local First Steps maternity care program for determination of prenatal care needs; and

(ii) Services include discussion of pregnancy specific issues and resources.

(f) If using medication services:

(i) A medical practitioner shall evaluate each patient who is taking disulfiram at least once every ninety days;

(ii) Patient medications are stored, disbursed, and recorded in accord with chapter 246-326 WAC; and

(iii) Only a licensed nurse or medical practitioner may administer medication.

**AMENDATORY SECTION** (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-310 Patients' rights.** (1) Each service provider shall ensure each patient:

(a) Is admitted to treatment without regard to race, color, creed, national origin, religion, sex, sexual orientation, age, or disability, except for bona fide program criteria;

(b) Is reasonably accommodated in the event of sensory or physical disability, limited ability to communicate, limited English proficiency, and cultural differences;

(c) Is treated in a manner sensitive to individual needs and which promotes dignity and self-respect;

(d) Is protected from invasion of privacy except that staff may conduct reasonable searches to detect and prevent possession or use of contraband on the premises;

(e) Has all clinical and personal information treated in accord with state and federal confidentiality regulations;

(f) Has the opportunity to review the patient's own treatment records in the presence of the administrator or designee;

(g) Has the opportunity to have clinical contact with a same gender counselor, if requested and determined appropriate by the supervisor, either at the agency or by referral;

(h) Is fully informed regarding fees charged, including fees for copying records to verify treatment and methods of payment available;

(i) Is provided reasonable opportunity to practice the religion of choice as long as the practice does not infringe on the rights and treatment of others or the treatment service. The patient has the right to refuse participation in any religious practice;

(j) Is allowed necessary communication:

(i) Between a minor and a custodial parent or legal guardian;

(ii) With an attorney; and

(iii) In an emergency situation.

(k) Is protected from abuse by staff at all times, or from other patients who are on agency premises, including:

(i) Sexual abuse or harassment;

(ii) Sexual or financial exploitation;

(iii) Racism or racial harassment; and

(iv) Physical abuse or punishment.

(l) Is fully informed and receives a copy of counselor disclosure requirements described under RCW 18.19.060;

(m) Receives a copy of patient grievance procedures upon request; and

(n) In the event of an agency closure or treatment service cancellation, each patient shall be:

(i) Given thirty days notice;

(ii) Assisted with relocation;

(iii) Given refunds to which the person is entitled; and

(iv) Advised how to access records to which the person is entitled.

(2) A service provider shall obtain patient consent for each release of information to any other person or entity. This consent for release of information shall include:

(a) Name of the consenting patient;

(b) Name or designation of the provider authorized to make the disclosure;

(c) Name of the person or organization to whom the information is to be released;

(d) Nature of the information to be released, as limited as possible;

(e) Purpose of the disclosure, as specific as possible;

(f) Specification of the date or event on which the consent expires;

(g) Statement that the consent can be revoked at any time, except to the extent that action has been taken in reliance on it;

(h) Signature of the patient or parent, guardian, or authorized representative, when required, and the date (~~(+and~~ ~~(+))~~).

(3) Any disclosure made with written patient consent shall be accompanied by a statement prohibiting further

disclosure unless expressly permitted by the written consent of the person to whom it pertains.

~~((3))~~ (4) A service provider shall notify patients that outside persons or organizations which provide services to the agency are required by written agreement to protect patient confidentially.

~~((4))~~ (5) A service provider shall notify an ADATSA recipient of the recipient's additional rights to:

(a) Report back to the department's community service office in case of a patient's disciplinary discharge from the program; and

(b) Request a fair hearing to challenge any departmental action which affects a patient's eligibility for ADATSA treatment or shelter assistance.

~~((5))~~ (6) The administrator shall ensure a copy of patients' rights is given to each patient receiving services, both at admission and in case of disciplinary discharge.

~~((6))~~ (7) The administrator shall post a copy of patients' rights in a conspicuous place in the facility accessible to patients and staff.

**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 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-320 Chemical dependency assessments.**

A chemical dependency counselor (CDC), or a CDC intern under supervision of a CDC, shall conduct and document an assessment of each client's involvement with alcohol and other drugs. The counselor's assessment shall include:

(1) A face-to-face diagnostic interview with each client to obtain, review, evaluate, and document the following:

(a) A history of the client's involvement with alcohol and other drugs, including:

(i) The type of substances used;

(ii) The route of administration; and

(iii) Amount, frequency, and duration of use.

(b) History of alcohol or other drug treatment or education;

(c) The client's self-assessment of use of alcohol and other drugs; and

(d) A relapse history.

(2) If the client is in need of treatment, an assessment of the person's:

(a) Motivation for recovery;

(b) Ability to attain and maintain abstinence;

(c) Risk of relapse; and

(d) Strengths and needs.

(3) If the client is found to be in need of treatment, an assessment of other factors affecting treatment, including:

(a) Current and historical psychosocial data;

(b) Issues relating to personal safety;

(c) Medical history, including:

(i) Physical status;

(ii) Mental status; and

(iii) Availability and use of medical care.

(d) For women, likelihood of a current pregnancy; and

(e) Legal history, including:

(i) Past charges; and

(ii) Current charges and courts of jurisdiction.

(4) If an assessment is conducted on a youth and the client is in need of treatment, the counselor shall also assess the following elements:

- (a) Parental use of drugs;
- (b) The developmental stage of the youth;
- (c) Ability to understand written materials;
- (d) Psychological and emotional stability;
- (e) Child or adolescent developmental problems associated with the use of chemicals;
- (f) Identification of school assessments and referrals;
- (g) Historical and current parental or custodial status;
- (h) History of learning disabilities and special education;
- (i) Running away, out-of-home placements, and institutional care or custody;
- (j) Support from significant adults and extended family; and

(k) Attempts shall be made to obtain information from parents and legal guardians, and from prior medical records and psychological evaluations with proper consent.

(5) Documentation of the information collected, including:

- (a) A written summary of the assessment;
- (b) A diagnostic assessment statement including signs, symptoms, and progression of client involvement with alcohol and other drugs;
- (c) A statement regarding provision of an HIV/AIDS brief risk intervention, and referrals made; and
- (d) Evidence the client:
  - (i) Was notified of the assessment results; and
  - (ii) Signed a document showing treatment options provided, and indicating the client's choice; or
  - (iii) If the client was not notified of the results and advised of referral options, the reason shall be documented.

(6) Documentation of the type and length of treatment recommended, in accord with patient placement criteria (PPC);

(7) Completion and submission of all reports required by the courts, department of licensing, and department of social and health services in a timely manner; and

(8) Referral of an adult or minor who requires assessment for involuntary chemical dependency treatment to the county-designated chemical dependency specialist.

**AMENDATORY SECTION** (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-325 Treatment, continuing care, transfer and discharge plans.** (1) A chemical dependency counselor (CDC) shall be responsible for assessments and the overall treatment plan for each patient, including:

- (a) Patient participation;
- (b) Completeness of patient records; and
- (c) Documentation of progress toward patient attainment of goals.

(2) A CDC or an intern under direct supervision of a CDC shall:

- (a) Develop the individualized treatment plan;
- (b) Evaluate the patient and conduct ongoing assessments in accord with PPC. In cases where it is not possible to place or provide the patient with the clinically indicated treatment, the reason shall be documented as well as whether other treatment will be provided;

(c) Conduct individual and group counseling;

(d) Update the treatment plan as problems arise or are resolved, including domestic violence and abuse issues if applicable;

- (e) Develop the continuing care plan using PPC; and
- (f) Complete the discharge summary.

(3) A CDC shall also include in the treatment plan for youth:

- (a) Structured drug free social and recreational activities;
- (b) Developmental concerns, including education on sexuality and safer sex;

(c) Referral for identification and treatment of sexually transmitted diseases and other services as needed; and

- (d) Referral to school and community support services.

(4) A CDC shall follow up when a patient misses an appointment to:

- (a) Try to motivate the patient to stay in treatment; and
- (b) Report a noncompliant patient to the committing authority as appropriate.

(5) A CDC shall involve each patient's family or other support persons, when the patient gives written consent:

- (a) In the treatment program; and

- (b) In self-help groups.

(6) When transferring a patient from one certified treatment service to another within the same agency, at the same location, a CDC shall:

(a) Update the patient assessment and treatment plan; and

(b) Provide a summary report of the patient's treatment and progress, in the patient's record. In detox, this may be done by a nurse or physician.

(7) Except in detox and for a patient who leaves treatment without notice, staff shall meet with each patient at the time of discharge from any treatment agency, to:

(a) Finalize a continuing care plan using PPC to assist in determining appropriate recommendation for care;

(b) Assist the patient in making contact with necessary agencies or services; and

- (c) Provide the patient a copy of the plan.

(8) When transferring a patient to another treatment provider, the current provider shall forward copies of the following information to the receiving provider when a release of confidential information is signed by the patient:

(a) Patient demographic information;

(b) Diagnostic assessment statement and other assessment information, including:

- (i) Documentation of the HIV/AIDS intervention;
- (ii) TB test result;
- (iii) A record of the patient's detox and treatment history;

(iv) The reason for the transfer; and

(v) Court-mandated or agency-recommended follow-up treatment.

- (c) Discharge summary; and

- (d) The plan for continuing care or treatment.

(9) A CDC shall complete a discharge summary, within seven days of each patient's discharge from the agency, which includes:

(a) The date of discharge or transfer;

(b) A summary of the patient's progress toward each treatment goal, except in detox; and

(c) In detox, a summary of the patient's physical condition.

**AMENDATORY SECTION** (Amending Order 3672, filed 12/22/93, effective 2/1/94)

**WAC 440-22-335 Patient record content.** The provider shall ensure patient record content includes:

- (1) Demographic information;
- (2) A chemical dependency assessment and history of involvement with alcohol and other drugs;
- (3) Documentation the patient was informed of the diagnostic assessment and options for referral or the reason not informed;
- (4) A report of a physical examination by a medical practitioner in accord with a nonresidential provider's policy on medical oversight, when a patient was dependent on barbiturates or benzodiazepines, or used intravenous drugs within thirty days of admission;
- (5) Documentation the patient was informed of federal ~~((confidentially))~~ confidentiality requirements and received a copy of the patient notice required under 42 CFR, Part 2;
- (6) Treatment service rules, translated when needed, signed and dated by the patient before beginning treatment;
- (7) Voluntary consent to treatment signed and dated by the patient, parent or legal guardian, except as authorized by law for protective custody and involuntary treatment;
- (8) Evidence of counselor disclosure information, acknowledged by the provider and patient by signature and date;
- (9) Evidence of a tuberculosis test and results;
- (10) Evidence of the HIV/AIDS brief risk intervention;
- (11) Initial and updated individual treatment plans, including results of the initial assessment and periodic reviews, addressing:
  - (a) Patient biopsychosocial problems;
  - (b) Short- and long-range treatment goals;
  - (c) Estimated dates for completion of each treatment goal;
  - (d) Approaches to resolve the problems;
  - (e) Identification of persons responsible for implementing the approaches;
  - (f) Medical orders, if appropriate; and
  - (g) Treatment plan reviews.
- (12) Documentation of referrals made for specialized care or services;
- (13) At least weekly individualized documentation of ongoing services in residential services, and as required in intensive outpatient and outpatient services, including:
  - (a) Date, duration, and content of counseling and other treatment sessions;
  - (b) Ongoing assessments of each patient's participation in and response to treatment and other activities;
  - (c) Progress notes as events occur, each shift in detox, and treatment plan reviews as specified under each treatment service of this WAC chapter; and
  - (d) Documentation of missed appointments.
- (14) Medication records, if applicable;
- (15) Laboratory reports, if applicable;
- (16) Properly completed authorizations for release of information;

(17) Copies of all correspondence related to the patient, including reports of noncompliance;

(18) A copy of the continuing care plan signed and dated by the chemical dependency counselor and the patient; and

(19) The discharge summary.

**WSR 97-09-002**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
[Filed April 2, 1997, 2:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-21-042.

Title of Rule: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc.

Purpose: Review and update rules pertaining to application for certificate of ownership when owner is deceased, bankrupt or incapacitated, involuntary divestiture, proper release of interest, signature authorizations, and repeal of vehicle dealer requirements.

Statutory Authority for Adoption: RCW 46.01.110 and 46.12.030.

Statute Being Implemented: Chapter 46.12 RCW.

Summary: Periodic maintenance review and update of selected rules. Making amendments and repeal of rules as needed to comply with RCW amendments and administrative corrections.

Reasons Supporting Proposal: Administrative update of out-dated rules.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, 1125 Washington Street S.E., Olympia, WA, (360) 902-3773; Implementation: Eric Andersen, 1125 Washington Street S.E., Olympia, WA, (360) 902-4045; and Enforcement: Nancy Kelly, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: New section WAC 308-56A-370, instructions for making application for ownership when a vehicle is held in joint tenancy when one of the tenancy is deceased.

Proposal Changes the Following Existing Rules: Repealed sections WAC 308-56A-255, supplemental form is no longer in use; WAC 308-56A-340, combined with WAC 308-56A-335; WAC 308-56A-345, combined with WAC 308-56A-360; WAC 308-56A-355, combined with WAC 308-56A-335; WAC 308-56A-400, application for certificate of title when vehicle is transferred from dealer to dealer is included in WAC 308-66-200; WAC 308-56A-405, instructions for titling vehicles acquired from federal government is now included in WAC 308-66-195; WAC 308-56A-410, dealer application for title instructions are included in WAC 308-66-195; and WAC 308-56A-415, application for titling in dealer name is exempt pursuant to RCW 46.12.010.

Amendatory sections WAC 308-56A-060, clarification of instructions for creating ownership in joint tenancy; WAC 308-56A-200, clarification in procedures for obtaining a

duplicate certificate of ownership; WAC 308-56A-205, deleting the need to notarize release of security interest; WAC 308-56A-210, correction of drafting error; WAC 308-56A-215, clarification in procedure for correcting endorsement errors; WAC 308-56A-250, clarification of signatures needed on application for certificate of ownership; WAC 308-56A-265, clarification for releasing interest; WAC 308-56A-270, clarification in forms of signatures; WAC 308-56A-275, update in who may witness signatures on an application for ownership; WAC 308-56A-280, update in appointment of department employees who may witness signatures; WAC 308-56A-300, update in applications for abandoned vehicles to incorporate amended provisions in chapter 46.55 RCW; WAC 308-56A-305, clarification and update in procedures for an application of ownership when purchased at sheriff's sale; WAC 308-56A-310, clarification and update in procedures for an application of ownership when purchased pursuant to a personal property lien; WAC 308-56A-315, update in application for name change; WAC 308-56A-320, update to show requirement for an odometer disclosure statement when vehicle is transferred by a court order; WAC 308-56A-325, clarification and update in release of vehicle owned by person who becomes incapacitated; WAC 308-56A-330, clarification in procedures for releasing interest in a vehicle owner succeeded through bankruptcy; and WAC 308-56A-335, 308-56A-350, 308-56A-360, 308-56A-365, and 308-56A-370, updating owner deceased procedures.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030. The proposed rule making does not impose more than a minor cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 303, 1125 Washington Street S.E., Olympia, WA, on June 3, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jack L. Lince, phone (360) 902-3773, by June 2, 1997, TDD (360) 664-8885.

Submit Written Comments to: Jack L. Lince, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by June 2, 1997.

Date of Intended Adoption: June 12, 1997.

April 2, 1997  
Nancy Kelly, Administrator  
Title and Registration Services

**AMENDATORY SECTION** (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-060** (~~Form required for name and address—~~) **Ownership in joint tenancy.** (1) If more than one person is shown on ~~(the title)~~ an application ((as registered owner, and the intention of the parties is to create)) for certificate of ownership for a vehicle, ownership in joint tenancy((, it is necessary to use the following language)) may be created by adding "joint tenancy with

rights of survivorship" (JTWROS) on the application ((for certificate of title:)).

~~((1) "John Doe and Jane Doe and Mary Doe as joint tenants with right of survivorship"; or)~~

~~(2) ("John Doe and Jane Doe and Mary Doe as joint tenants with right of survivorship and not as tenants in common.")~~

The address of only one of the registered owners will be ~~((accepted on the application for title))~~ recorded.

~~(3) The ownership of the vehicle in joint tenancy will be indicated on the certificate ((issued by the department in the following manner: "J.T.W.R.O.S.") of ownership as a brand/comment JTWROS.~~

~~((A certified copy of the death certificate will be required upon the death of a party named on such a title. An application for title in the name(s) of the remaining party will be required.))~~ (4) Creation of joint tenancy of leased vehicles is not available.

**AMENDATORY SECTION** (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-200** (~~Lost title.~~) **Duplicate certificate of ownership.** (1) If the last issued certificate of ~~((title has been))~~ ownership is lost, stolen, mutilated, or destroyed((:)), or becomes illegible, a duplicate copy may be obtained by making application to the department.

~~((1) An))~~ The application ((for a duplicate certificate of title must)) shall be accompanied by an affidavit of loss or destruction in a form approved by the department and signed by the legal owner of record.

(2) An application for ~~((transfer or))~~ reissue of ((title)) a certificate of ownership, to remove a security interest may be accepted if accompanied by ((a)) an affidavit of loss or destruction in a form approved by the department and signed by the legal owner of record((, and

~~(b) A proper release of interest)).~~

(3) ~~((And the title))~~ When a certificate of ownership is from a foreign state or jurisdiction, ((a)) the owner of record in that foreign state or jurisdiction must ((apply for)) obtain a duplicate ((title)) certificate of ownership from the foreign state ((issuing the certificate of title or registration)) or jurisdiction and that duplicate certificate ((must be attached to)), with proper release of interest, accompany the application for a state of Washington certificate of ((title)) ownership.

~~((b) If undue hardship would result from the necessity of obtaining a duplicate certificate, a letter verifying the ownership of the vehicle from the issuing state will be accepted in lieu of a foreign certificate if that letter of verification is no more than 30 days old.~~

~~(c) If the foreign certificate or letter of verification shows a person other than the person making the application for Washington certificate of title, the person or persons shown must release his/her or their interest either by endorsement on the certificate or on a release of interest form.))~~

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-205 Release of interest.** (1) If the registered and/or legal owners of record cannot release their interest on the ~~((title))~~ certificate of ownership, a release of interest form approved by the department properly signed in accordance with WAC 308-56A-275, may be used as supportive documentation.

(2) Release of security interests by businesses regularly making loans to other persons to finance the purchase of motor vehicles do not need to be notarized as provided in WAC 308-56A-275.

AMENDATORY SECTION (Amending WSR 96-03-047, filed 1/11/96, effective 2/11/96)

**WAC 308-56A-210 Lack of proper release of interest.** If the registered or legal owner, as shown in the records of the department or a foreign state issuing the last certificate of ownership and/or registration of a vehicle, has not released his/her interest in the vehicle, by endorsement on the certificate of ownership or by a satisfactory release of interest, the following must be attached to an application for Washington certificate of ownership:

(1) Proper documentation authorized in WAC 308-56A-205 to be used in lieu of a release by the registered or legal owner; or

(2) A bond in accordance with RCW 46.12.151; or

(3) The following, if satisfactory to the department:

(a) An affidavit by the applicant stating the reasons the person is unable to obtain a release of interest from the registered and/or legal owner of record; ~~((and))~~

(b) Evidence of ownership of the vehicle by the applicant such as, but not limited to, a bill of sale; and

(c) Evidence of attempts to locate the owner of record such as, but not limited to, copies of correspondence sent by registered or certified mail, return receipt requested to the last known address of the owner.

(4) For purposes of this section, an individual purchaser or transferee of a vehicle may request the name and address of the owner(s) of record for that vehicle by satisfying subsection (3)(a) and (b) of this section and completing a form provided by the department. When satisfied the request is for obtaining proper release of interest, the department may disclose the name(s) and address of the last owner(s) of record for that vehicle.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-215 Incorrect endorsements or erasures.** (1) If a ~~((title or application has been))~~ certificate of ownership or release of interest is signed in error, draw a line ((must be drawn)) through the erroneous signature((-An affidavit must be attached to explain)) and attach an affidavit, signed by the owner, explaining when, why and by whom the signature was stricken. A release of interest is required from the person signing in error unless that person has also signed the affidavit.

(2) If an erasure ~~((has been))~~ or inappropriate writing is made on a ((title or application,)) certificate of ownership, attach an affidavit ((must be attached. The affidavit must

state)) signed by the owner stating why and by whom the erasure or writing was made. A release of interest must be signed by the ~~((one))~~ person whose name was erased unless that person has also signed the affidavit.

(3) A name erroneously shown on the ~~((title))~~ certificate of ownership as the purchaser must have either a release of interest from the erroneously named purchaser or ~~((a statement))~~ an affidavit signed by the owner of record that the sale was not completed.

AMENDATORY SECTION (Amending WSR 92-15-024, filed 7/6/92, effective 8/6/92)

**WAC 308-56A-250 Signature of ~~((registered))~~ owner on application(~~(-Exceptions))~~.** On an application for an original, reissue, or transfer of certificate of ~~((title))~~ ownership, the signature of each and every named ~~((registered))~~ owner of the vehicle is required, except:

(1) When the application is for the sole purpose of removing a ~~((legal owner of record))~~ secured party from the certificate of ~~((title))~~ ownership when that legal owner's security interest has been satisfied ~~((in the vehicle));~~

(2) When authorized supportive documentation is used in lieu of the signature or signatures;

(3) When the legal owner applies for a duplicate ~~((title))~~ certificate of ownership;

(4) When there is a statutorily authorized lien filed by a government agency to place a lien against the vehicle as a secured party.

(5) When an existing legal owner's perfected security interest is transferred to another party and the new legal owner is perfecting their security interest and removing the existing legal owner. Evidence or documentation of the secured interest transfer must be provided.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-265 Releasing interest.** (1) In order for a person to release his/her interest in a vehicle as registered or legal owner, his/her signature is required on the certificate of ~~((title issued by the department))~~ ownership, unless authorized ~~((supportive))~~ documentation is used in lieu of that signature ~~((or in lieu of the certificate issued by the department)).~~

(2) If the signatures releasing interest are not on the certificate of ~~((title))~~ ownership, all signatures must be certified in accordance with WAC 308-56A-275.

(3) If more than one person is shown as registered or legal owner on the certificate of ~~((title issued by the department as registered or legal owner))~~ ownership, the signature of each registered and legal owner is required no matter what the form of ownership unless authorized ~~((supportive))~~ documents are used in lieu of one or more signatures.

(4) A release of interest is not required ~~((from one identified as))~~ for a lessee.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-270 Forms of signature.** (1) ~~((In all cases where))~~ When the signature of an individual is required ~~((, that signature shall be in exactly the same form~~

~~as the name of the individual that appears)) on ((the)) an application ((or on the)) for certificate of ((title issued by the department. If the signature contains initials that coincide with the first letter of the given name or names of the named individual, the department will accept that signature. If the signature contains a given name or names that begin with the initials shown on the application or on the title, the department will accept that signature also)) ownership, release of interest, or supporting document, the person's signature shall replicate the name shown on the application, certificate, and document. Initials in lieu of first or middle names, names in lieu of first or middle initials, and common nicknames in lieu of first names are acceptable.~~

~~(2) ((If)) When the signature ((of a named)) for a business entity is required((;)) on an application for certificate of ownership, release of interest, or supporting document, the person authorized ((individual shall)) to sign ((for the)) shall indicate the name of the business entity ((and indicate the title of)) followed by his/her personal signature and position with ((that)) the business entity. ((The name of the business entity shall be shown.)) A commonly known abbreviation ((of the name)) of the business entity((;)) name may((; in the discretion of the department,)) be ((accepted)) used.~~

AMENDATORY SECTION (Amending Order TL/RG 44, filed 9/30/88)

**WAC 308-56A-275 Certification of signature.** (1) The signature of every applicant to be shown on the certificate of ((title)) ownership as the registered owner ((and of other signatures, as required,)) shall be subscribed ((to)) and sworn to ((by that person)) before a:

- (a) Notary public((;));
- (b) County auditor((; deputy auditor, an authorized agent approved by the director of licensing, an)) or an employee of a county auditor performing vehicle licensing duties;
- (c) Subagent of a county auditor or an employee of the subagent performing vehicle licensing duties;
- (d) An agent appointed by the director ((of licensing,)) or an employee or appointee of ((either type or)) the agent((;)) performing vehicle licensing duties; or
- (e) An employee of the department ((of licensing)) authorized by the director to certify to an applicant's signature. ((Approved identification of the person signing shall be required.))

(2) The applicant must satisfy the licensing agent as to his/her identity by at least one of the following:

- (a) A valid driver's license issued by the state of Washington or another jurisdiction;
  - (b) A valid identicaid issued by the state of Washington;
- or
- (c) A photo identification card.
- (3) In the event none of the documents in subsection (2) of this section is available, two of the following:
- (a) A nationally or regionally known credit card containing the signature of the applicant;
  - (b) An identification card issued by the United States, any state, or any agency of either, of a kind commonly used to identify the members or employees of such government agencies and which contain the signature of the applicant;

(c) Any certificate or other document issued by any governmental agency commonly used for the purpose of establishing identities; or

(d) Such other documentary evidence as in the opinion of the licensing agency clearly establishes the identity of the applicant.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

~~WAC 308-56A-280 ((Certification of signature— Departmental)) Appointment of department employees to certify signatures.~~ The director hereby authorizes the following department employees to certify signatures when required by WAC 308-56A-275:

- (1) Deputy director((; the));
- (2) Assistant director ((for))<sub>1</sub> vehicle services((; the chief officer and assistant of the division primarily responsible for vehicle licenses and titles.))<sub>2</sub> division;
- (3) Title and registration services administrator;
- (4) License service managers assigned to title and registration services and prorate and fuel tax services;
- (5) Persons assigned ((to)) liaison duties between the department and its vehicle license agents((;))<sub>1</sub> and
- (6) Persons assigned ((the responsibility of accepting)) duties for processing vehicle/vessel title and registration applications ((from persons appearing)) at the department's vehicle licensing offices.

AMENDATORY SECTION (Amending Order TL/RG 44, filed 9/30/88)

~~WAC 308-56A-285 ((Certification of signature—)) Appointment of vehicle dealers to certify signatures.~~ When a vehicle is sold by a licensed vehicle dealer, ((such)) purchaser's signatures on the application for certificate of ownership may be certified to by the licensed vehicle dealer or an ((individual named on the dealer's bond filed with the department of licensing)) employee appointed by the licensed vehicle dealer. The vehicle dealer or vehicle dealer's employee shall authenticate their signature by including the name of the vehicle dealer as licensed pursuant to chapter 46.70 RCW and the vehicle dealer number issued by the department.

AMENDATORY SECTION (Amending Order TL/RG/36, filed 10/9/87)

**WAC 308-56A-300 Title applications ((for title)) for abandoned vehicles.** An application for ((title)) certificate of ownership for ((any)) an abandoned vehicle, ((as)) defined in RCW 46.55.010(1), sold pursuant to RCW 46.55.130 by a registered tow truck operator, ((as defined in RCW 46.55.010(6).)) must be accompanied by a copy of the properly completed abandoned vehicle report - affidavit of sale ((submitted and processed in accordance with RCW 46.55.130 (2)(h)).

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-305 Sheriff's sale.** (1) An application for ((title)) certificate of ownership for a vehicle ((sold by)) purchased under execution, order of sale, or decree pursuant

PROPOSED

to chapter 6.21 RCW at a sheriff's ~~((pursuant to Washington state law transfers only the interests of the person shown on the bill of sale, or if the former owner is not shown, only the interests of the registered owner of record, and))~~ sale shall be accompanied by:

(a) ~~((The sheriff's))~~ A bill of sale issued by the sheriff;  
~~((and))~~

(b) A copy of the court order directing the sale, if any; and

(c) An odometer disclosure statement completed by the applicant, if applicable.

(2) ~~((vehicle must be titled in the name of the))~~ purchaser shown on the bill of sale is responsible for obtaining a certificate of ownership in his/her own name.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-310 Personal property lien.** The application for ~~((title))~~ certificate of ownership for any vehicle sold ~~((under))~~ after being acquired pursuant to a personal property lien ~~((shall transfer only the registered owner's interest and))~~ shall be accompanied by:

(1) The seller's bill of sale; and

~~((1))~~ (2) The court decree directing sale or order awarding the vehicle; or

~~((2))~~ (3) An affidavit from the seller ~~((a))~~ in a form approved by the department, ~~((and (b) A statement))~~ explaining how the lien was acquired, supported by documentation satisfactory to the department; and

(4) An odometer disclosure statement completed by the applicant, if applicable.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-315 Name change.** ~~((On any))~~ An application for reissue of ~~((title where the name of the registered owner has been changed by court action, a certified))~~ a certificate of ownership when the registered owner has changed his/her name, shall be accompanied by:

(1) A copy of the court order authorizing the name change ~~((shall be attached to the application)); or~~

(2) An affidavit of name change in a form approved by the department.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-320 Transfer by court order.** Any application for certificate of ~~((title, where))~~ ownership, when a change of legal or registered owner of a vehicle is the result of the order of a court, shall be accompanied by:

(1) A ~~((certified))~~ copy of the order or a certification from the clerk of court ~~((on a department approved form))~~ confirming the court's action~~((:));~~

(2) If the last issued certificate of ~~((title))~~ ownership is not attached to the application, an affidavit of ~~((lost or destroyed title))~~ loss or an affidavit explaining the nonavailability of the ~~((title document shall also be attached to the application))~~ certificate of ownership; and

(3) An odometer disclosure statement completed by the applicant, if applicable.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-325 Owner** ~~((incompetent))~~ incapacitated. ~~((On any application for certificate of title where))~~ Whenever the ~~((former))~~ owner of record of the vehicle ~~((has been))~~ is declared ~~((legally incompetent, the incompetent's))~~ incapacitated pursuant to chapter 11.88 RCW, interest in the vehicle shall be released by signature of the court appointed guardian. A ~~((certified))~~ copy of the court order appointing the guardian shall ~~((be attached to))~~ accompany the application.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-330 Owner bankrupt.** ~~((On any application for certificate of title where))~~ Whenever the ~~((prior owner's))~~ interest ~~((has been terminated))~~ of an owner is succeeded through bankruptcy proceedings, the interest of the bankrupt owner in the vehicle ~~((may))~~ shall be released by ~~((his/her))~~ a properly appointed trustee. ~~((If the release is by his/her trustee,))~~ The application for certificate of ownership for the new owner shall be accompanied by a ~~((certified))~~ copy of the court order appointing the trustee ~~((shall be attached to the application))~~ and the authority for disposition of the vehicle, including a full description of the vehicle.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-335 Owner deceased—**~~((Signature of personal representative))~~ Estate administered. (1) On any application for certificate of ~~((title where))~~ ownership for a vehicle which has been acquired from the estate of a ~~((deceased person))~~ testate or intestate decedent, the interest of the ~~((deceased's estate))~~ decedent in the vehicle shall be released by ~~((the))~~ signature of the personal representative. The application for certificate of ownership shall be accompanied by:

(a) A copy of the court order appointing, approving, or confirming the personal representative ~~((shall be attached to the application)); and~~

(b) An odometer disclosure statement, if applicable.  
~~((Any))~~

(2) All unreleased ~~((legal owners)),~~ perfected security interests shall remain ~~((as such on the new certificate of title issued by the department))~~ valid.

AMENDATORY SECTION (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-350 Owner deceased—To spouse "in lieu of homestead."** If the ~~((prior))~~ owner of record of a vehicle is deceased and the court awards the vehicle to the surviving spouse "in lieu of homestead", pursuant to chapter 11.52 RCW, a ~~((certified))~~ copy of the court's order or a certification from the clerk of court ~~((on department approved forms))~~ confirming such court action ~~((must be attached to))~~ shall accompany the application for certificate of ~~((title))~~ ownership. The court order or the certification from the court clerk shall provide specific identification of the vehicle.

**AMENDATORY SECTION** (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-360 Owner deceased—Estate not administered.** ~~(1)~~ If the ~~((prior))~~ owner of record of a vehicle is deceased, ~~((left no will,))~~ and the estate will not be administered, pursuant to chapter 11.68 RCW, the surviving spouse or ~~((any other heir))~~ personal representative may release the decedent's interest ~~((of the deceased's estate))~~ in the vehicle ~~((by attaching the following to any))~~. The application for certificate of ~~((title))~~ ownership shall be accompanied by:

~~((1))~~ (a) An affidavit of inheritance with affidavits of release of interest from other heirs attached thereto; or

(b) An affidavit of succession prepared pursuant to RCW 11.62.010 and providing specific identification of the vehicle(s); and

~~((2 Certified))~~ (c) A copy of the decedent death certificate; and

(d) An odometer disclosure statement, if applicable.

(2) All unreleased, perfected security interests shall remain valid.

**AMENDATORY SECTION** (Amending Order MV 208, filed 7/31/74)

**WAC 308-56A-365 Owner deceased—Community property agreement.** (1) If the ~~((prior))~~ owner of record of a vehicle is deceased and a valid community property agreement exists, the surviving spouse may release the interest of the ~~((deceased's estate))~~ decedent in the vehicle. An application for certificate of ownership shall be made transferring ownership of the vehicle to the surviving spouse or any other person. The ~~((following))~~ application shall be ~~((attached to any application for certificate of title))~~ accompanied by:

~~((1))~~ (a) A ~~((certified))~~ copy of the community property agreement;

~~((2))~~ (b) A ~~((certified))~~ copy of the decedent's death certificate; and

(c) An odometer disclosure statement, if applicable.

(2) All unreleased, perfected security interests shall remain valid.

#### **NEW SECTION**

**WAC 308-56A-370 Owner deceased—Owners in joint tenancy.** (1) If an owner of record of a vehicle is deceased and the vehicle ownership is held as joint tenants with right of survivorship (JTWRoS) with another person, the surviving owner shall make application for certificate of ownership. The application shall be accompanied by:

(a) A copy of the decedent's death certificate; and

(b) An odometer disclosure statement, if applicable.

(2) All unreleased, perfected security interests shall remain valid.

#### **REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 308-56A-255 Signature of registered owner—Supplemental form.

WAC 308-56A-340	Owner deceased—Will left.
WAC 308-56A-345	Owner deceased—No will left.
WAC 308-56A-355	Owner deceased—In name of estate.
WAC 308-56A-400	Dealer to dealer transfer.
WAC 308-56A-405	Acquired from United States government.
WAC 308-56A-410	No application required.
WAC 308-56A-415	Application in dealers name.

**WSR 97-09-019**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Public Assistance)  
[Filed April 8, 1997, 10:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-21-131.

Title of Rule: Revision to WAC 388-11-285.

Statutory Authority for Adoption: RCW 74.20A.055.

Statute Being Implemented: RCW 74.20A.055.

Summary: To conform with amendments to RCW 74.20A.055.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507, (360) 586-3077.

Name of Proponent: Department of Social and Health Services, Economic Services Administration, Division of Child Support, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To conform with amendments to RCW 74.20A.055.

Proposal Changes the Following Existing Rules: Additions to WAC 388-11-285.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not meet the requirements for a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Does not apply to this rule adoption under RCW 34.05.328.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on June 10, 1997, at 10:00.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by May 27, 1997, (360) 902-7540, TTY (360) 902-8324, e-mail lbaldwin@dshs.wa.gov.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by June 10, 1997.

Date of Intended Adoption: No sooner than June 11, 1997.

April 8, 1997

Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

PROPOSED

AMENDATORY SECTION (Amending Order 3964, filed 4/10/96, effective 5/11/96)

**WAC 388-11-285 Notice and finding of financial responsibility.** (1) The agency may serve a notice and finding of financial responsibility (NFFR) on a responsible parent to establish a support obligation under chapter 26.21 or 74.20A RCW if there is no order that establishes the responsible parent's support obligation or specifically relieves the responsible parent of a support obligation.

(2) The agency shall serve an NFFR like a summons in a civil action or by certified mail, return receipt requested.

(3) In an NFFR, the agency shall include the information required by WAC 388-11-210 and RCW 74.20A.055 and calculate:

(a) The responsible parent's accrued support debt and current support obligation using, in the following order of preference:

(i) Actual income;

(ii) Estimated income, if the agency has:

(A) Incomplete information;

(B) Information based on the prevailing wages in the responsible parent's trade or profession; or

(C) Information that is not current.

(iii) Imputed income under RCW 26.19.071(6); and

(b) The responsible parent's health insurance coverage obligation under WAC 388-11-215.

(4) The responsible parent shall make all support payments after service of an NFFR to the Washington state support registry. The agency shall not credit payments made to any other party after service of an NFFR except as provided in WAC 388-11-015 and 388-11-280.

(5) An NFFR becomes final and subject to immediate wage withholding and enforcement without further notice under chapters 26.18, 26.23, and 74.20A RCW unless the responsible parent, within twenty days of service of the NFFR in Washington:

(a) Contacts the agency and signs an agreed settlement; or

(b) Files a written request with the agency for a hearing.

(6) An NFFR served in another state becomes final and subject to collection action according to WAC 388-11-305.

(7) The effective date of a hearing request is the date the agency receives the request.

(8) A hearing on the merits of an objection to an NFFR is for the limited purpose of resolving the accrued support debt and current support obligation.

(9) The responsible parent has the burden of proving any defenses to liability. See WAC 388-11-065.

(10) In any hearing under this section, if the responsible parent provides credible evidence that would rebut the presumption of paternity set forth in RCW 26.26.040, the presiding officer shall order the agency to refer the matter for the scheduling of an appropriate hearing in superior court to determine whether the presumption should be rebutted.

(11) "Credible evidence" for the purposes of subsection (10) of this section means proof of facts worthy of belief that at or near the time of conception, the circumstances were such as to render it impossible that the responsible parent could be the biological parent of the child.

(12) A referral under subsection (10) of this section shall not be grounds to dismiss the notice. A referral under

subsection (10) shall not be grounds to continue the hearing if there is any other basis on which to establish a support obligation against the responsible parent.

~~((13))~~ (13) The agency shall mail notice of any hearing scheduled under this section to the physical custodian at the physical custodian's last known address. The physical custodian may participate in the hearing to the extent allowed under WAC 388-11-400 through 388-11-425.

~~((14))~~ (14) If a responsible parent requests a late hearing under WAC 388-11-310, the responsible parent must show good cause for filing a late hearing request if the request is filed more than one year after service of the NFFR.

~~((15))~~ (15) WAC 388-11-155 governs the duration of an obligation established under this section.

~~((16))~~ (16) An NFFR shall fully and fairly apprise the responsible parent of the rights and responsibilities in this section.

**WSR 97-09-020**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Public Assistance)  
[Filed April 8, 1997, 10:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-16-010.

Title of Rule: Revisions to chapter 388-14 WAC.

Purpose: In general, to make chapter 388-14 WAC clearer and easier to understand; to clarify the rules regarding distribution of support; to conform with amendments to RCW 26.19.080(3); to establish rules and procedures under the Uniform Interstate Family Support Act; to provide for full party status for physical custodians who receive public assistance; and to provide for the ability to make a verbal request for hearing.

Statutory Authority for Adoption: RCW 34.05.220(1), 74.08.090, 74.20A.310, and 26.23.035.

Statute Being Implemented: RCW 26.19.080(3), 26.23.110, 26.21.205, 26.18.170, 26.18.180, 26.23.035, 34.05.220, and 74.20A.040.

Summary: DCS seeks to make chapter 388-14 WAC easier to understand and use. The procedures for the notice of support owed and the notice of support debt are redrafted. WAC 388-14-270, regarding distribution of support moneys, is redrafted and broken into several new sections for the purpose of clarity. New section WAC 388-14-375 sets forth the procedures for recovery of excess amounts of special child rearing expenses, as provided by a 1996 amendment to RCW 26.19.080(3). Provisions of chapter 388-14 WAC are redrafted to provide full party status rights to physical custodians who receive public assistance, not just for nonassistance cases. New section WAC 388-14-500 allows DCS to accept verbal requests for hearing instead of requiring written objections.

Reasons Supporting Proposal: (1) Customer service; (2) clarity of procedures for all persons involved in DCS proceedings.

PROPOSED

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, P.O. Box 9162, Mailstop 45860, Olympia, WA 98507, (360) 586-3077.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amendments and new sections in chapter 388-14 WAC to provide clarity, to conform with amendments to RCW 26.19.080(3), to clarify procedures under UIFSA, to provide for verbal hearing requests.

Proposal Changes the Following Existing Rules: Amendments to WAC 388-14-020, 388-14-030, 388-14-260, 388-14-270, 388-14-300, 388-14-385, 388-14-390, 388-14-415, 388-14-420, 388-14-435, 388-14-440, 388-14-445, 388-14-450 and 388-14-460; and additions of new sections WAC 388-14-271, 388-14-272, 388-14-274, 388-14-276, 388-14-375, 388-14-495, 388-14-496, and 388-14-500.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not meet the requirements for a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Does not apply to this rule adoption under RCW 34.05.328.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on June 10, 1997, at 10:00.

Assistance for persons with disabilities: Contact Leslie Baldwin by May 27, 1997, (360) 902-7540, TTY (360) 902-8324, e-mail lbaldwin@dshs.wa.gov.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by June 10, 1997.

Date of Intended Adoption: No sooner than June 11, 1997.

April 8, 1997

Merry A. Kogut, 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 97-10 issue of the Register.

**WSR 97-09-022**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
(Business and Professions Division)  
[Filed April 9, 1997, 10:36 a.m.]

The Department of Licensing, Business and Professions Division, is withdrawing WSR 97-07-033, Form CR-102, filed on March 12, 1997. This notice was to adopt brief adjudicative procedures for WAC 308-29-090, 308-29-100, and 308-29-110.

The agency will refile the notice at a later date, when the hearing will be held in conjunction with a Collection Agency Board meeting.

Teri Osborn  
Manager

**WSR 97-09-025**  
**PROPOSED RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed April 10, 1997, 9:14 a.m.]

Continuance of WSR 97-04-077.

Preproposal statement of inquiry was filed as WSR 96-16-084.

Title of Rule: State fair fund - proration.

Purpose: Amend the formula for allocation of state fair funds to community fairs.

Other Identifying Information: WAC 16-700-021.

Statutory Authority for Adoption: RCW 15.76.180.

Statute Being Implemented: Chapter 15.76 RCW, Agricultural fairs, youth shows.

Summary: The amendment will allow the director of agriculture to adjust the minimum basic allocation to community fairs under certain circumstances.

Reasons Supporting Proposal: Changes will allow the director to make proportional changes in state aid to agricultural fairs to ensure an equitable allocation.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Walter Swenson, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1928.

Name of Proponent: Washington State Fairs Commission, Washington State Department of Agriculture, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Postponement of hearing date and adoption date.

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

Hearing Location: Washington State Department of Agriculture, Natural Resources Building, Room 205, 1111 North Washington Street, 2nd Floor, Olympia, WA 98504-2560, on May 7, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Walter Swenson by May 1, 1997, TDD (360) 902-1996, or (360) 902-1928.

Submit Written Comments to: Walter Swenson, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, FAX (360) 902-2089, by May 7, 1997.

Date of Intended Adoption: May 30, 1997.

April 2, 1997  
William E. Brookreson  
Assistant Director

PROPOSED

**WSR 97-09-038**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed April 15, 1997, 9:35 a.m.]

Supplemental Notice to WSR 97-06-028.

Preproposal statement of inquiry was filed as WSR 96-22-087.

Title of Rule: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc.

Purpose: Periodic maintenance of rules pertaining to odometer disclosure.

Statutory Authority for Adoption: RCW 46.01.110.

Statute Being Implemented: RCW 46.12.124.

Summary: The proposed rule making will update existing rules as needed to reflect the latest amendments to state statutes affecting odometer disclosure statements.

Reasons Supporting Proposal: The rules pertaining to odometer disclosure are amended and/or repealed in whole or in part to reflect changes in statutory requirements and procedures.

Name of Agency Personnel Responsible for Drafting: Jack L. Lince, 1125 Washington Street S.E., Olympia, WA, (360) 902-3773; Implementation: Eric Anderson, 1125 Washington Street S.E., Olympia, WA, (360) 902-4045; and Enforcement: Nancy Kelly, 1125 Washington Street S.E., Olympia, WA, (360) 902-3754.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: No new rules are being proposed.

Proposal Changes the Following Existing Rules: WAC 308-56A-610, repealing conditions contained in RCW 46.12.124. Clarification of conditions for use of power of attorney; WAC 308-56A-620, clarification of terms used in this chapter and chapters 46.12 and [46].16 RCW; WAC 308-56A-630, repeal this section. Conditions are contained in RCW 46.12.124; WAC 308-56A-640, administrative clarification; WAC 308-56A-650, repeal conditions contained in RCW 45.12.124 [46.12.124]; WAC 308-56A-660, expand instruction for providing an odometer disclosure statement when the vehicle is involuntarily transferred; WAC 308-56A-670, administrative clarification; WAC 308-56A-680, add conditions for acceptance of out of state odometer disclosure statements; and WAC 308-56A-690, administrative clarifications.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.030. The proposed rule making does not impose more than a minor cost on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The contents of the proposed rules are explicitly and specifically dictated by statute.

Hearing Location: Highways-Licenses Building, Conference Room 303, 1125 Washington Street S.E., Olympia, WA, on June 3, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jack L. Lince, phone (360) 902-3773, by June 2, 1997, TDD (360) 664-8885.

Submit Written Comments to: Jack L. Lince, Contracts Manager, Title and Registration Services, P.O. Box 2957, Olympia, WA 98507-2957, FAX (360) 664-0831, by June 2, 1997.

Date of Intended Adoption: June 12, 1997.

April 14, 1997

Nancy Kelly, Administrator  
 Title and Registration Services

AMENDATORY SECTION (Amending Order TL/RG 49, filed 7/31/89, effective 8/31/89)

**WAC 308-56A-610 Odometer disclosure statement—General procedures/requirements**~~((when transferring ownership of a vehicle))~~. (1) An odometer disclosure statement must be completed, pursuant to RCW 46.12.124, by the transferor of each vehicle and accompany the application for certificate of ~~((title))~~ ownership.

(2) A power of attorney designated pursuant to chapter 11.94 RCW may be used with an odometer disclosure statement with the following limitations:

(a) The transferor ~~((cannot authorize or))~~ may not give power of attorney to the ~~((purchaser or the dealer))~~ transferee of the same vehicle to complete ~~((the))~~ a separate odometer disclosure~~((The odometer disclosure statement must contain the following information:~~

(1) ~~The miles shown on the odometer at the time of transfer of ownership;~~

(2) ~~Date disclosure statement is completed;~~

(3) ~~One of the following statements:~~

(a) ~~The mileage reflected is actual to the best of the transferor's knowledge; or~~

(b) ~~The odometer reading exceeds the mechanical limits of the odometer to the best of the transferor's knowledge; or~~

(e) ~~The odometer reading is not the actual mileage. If the odometer reading is under 100,000 miles, the only options that can be certified are "actual to the best of the transferors knowledge" or "not the actual mileage." If the odometer reading exceeds 100,000 miles, the options "actual to the best of the transferors knowledge" or "not the actual mileage" cannot be used unless the odometer has six digit capability.~~

(4) ~~A complete description of the vehicle is required on the odometer disclosure statement to include:~~

(a) ~~Model year~~

(b) ~~Make~~

(c) ~~Series and body type~~

(d) ~~Vehicle identification number~~

(e) ~~License plate number and state (if available)~~

(5) ~~The name and address of the transferor must be printed on the disclosure. The transferor must also sign his/her name on the disclosure.~~

(a) ~~Only one registered owner is required to complete the odometer disclosure statement.~~

(b) ~~When the registered owner is a business, both the business name and a company representative's name must be reflected on the odometer disclosure statement.~~

(6) ~~The name and address of the transferee must be printed on the disclosure. The transferee must also sign his/her name on the odometer disclosure statement to acknowledge the transferor's information. If the transferee represents~~

~~a company, both the company name and the agent name must be reflected on the odometer disclosure statement.~~

~~(7) Such notice is required by the Federal Truth in Mileage Act of 1986; and~~

~~(8) Failure to complete such odometer disclosure statement or providing false information may result in fines and/or imprisonment);~~

(b) The transferee of a vehicle may not give a power of attorney to the transferor of the same vehicle to complete a separate odometer disclosure;

(c) The transferee may give a power of attorney to a disinterested third party to complete the separate odometer disclosure; or

(d) The power of attorney may not be used to complete an odometer power of attorney.

(3) An odometer disclosure/title extension statement may be used with a secure certificate of ownership or when the secure certificate of ownership is lost or is being held by a lienholder.

AMENDATORY SECTION (Amending Order TL/RG 49, filed 7/31/89, effective 8/31/89)

WAC 308-56A-620 Definitions. ((+) Transferee-) Terms used in chapters 46.12 and 46.16 RCW and this chapter shall have the following meanings except where otherwise defined, and unless where used the context thereof clearly indicates to the contrary:

(1) "Transferee" means ((any)) a person to whom a motor vehicle is transferred, by purchase, gift, or any means other than by creation of a security interest, and any person who, as agent, signs ((and fan)) an odometer disclosure statement for the transferee.

(2) ((Transferor-)) "Transferor" means ((any)) a person who transfers ((his)) ownership in a motor vehicle by sale, gift, or any means other than by creation of a security interest and any person who, as agent, signs an odometer disclosure statement for the transferor.

(3) "Involuntary divestiture((-))" means a change in vehicle ownership without the registered owner's involvement.

AMENDATORY SECTION (Amending Order TL/RG 49, filed 7/31/89, effective 8/31/89)

WAC 308-56A-640 Odometer disclosure statement— Vehicle dealer transactions. (1) Vehicle dealers ((are required to)) must obtain odometer disclosure statements from the ((selling owner)) transferor of the vehicle. A second odometer disclosure statement must be completed by the vehicle dealer as transferor at the time of wholesale or retail sale ((whether at wholesale or retail)).

(2) Vehicle dealers ((are required to)) must maintain records of((- and complete)) completed odometer disclosure statements on((-)) dealer to dealer vehicle reassignments. ((However))

(3) If the certificate of ownership is unsecure, only the ((prior owner's)) transferor odometer disclosure statement must accompany the application for ((title)) certificate of ownership at the time of retail sale.

(4) Odometer disclosure statement records ((are to)) must be kept by the vehicle dealer for five years.

AMENDATORY SECTION (Amending Order TL/RG 49, filed 7/31/89, effective 8/31/89)

WAC 308-56A-650 Odometer disclosure statement— Leased vehicles. ((Anytime a lessee is reflected on the certificate of ownership,)) (1) The lessor of a leased vehicle must notify the lessee in writing that the lessee is required to provide to the lessor a written odometer disclosure statement ((regarding the mileage to the lessor)) at the termination of the lease. The ((lessee)) notice may be given ((by the lessor at)) any time after execution of the lease contract and prior to the ((final)) termination of the lease or transfer of ownership.

(2) In addition to the requirements provided in RCW 46.12.124, the odometer disclosure statement must contain the following information:

((+)) (a) The printed name of the ((person making the disclosure;

(2) The current odometer reading;

(3) The date of the statement;

(4)) lessee completing the odometer disclosure statement. Only one lessee is required to complete and sign the disclosure statement;

(b) The lessee's name and current address;

((5)) (c) The lessor's name and current address; and

((6) A complete description of the vehicle is required on the odometer disclosure to include:

(a) Model year

(b) Make

(c) Series and body type

(d) Vehicle identification number

(e) License plate number and state (if available)

(7) The date that the lessor notified the lessee of disclosure requirements;

(8) The date that the completed disclosure statement was received by the lessor;

(9)) (d) The signature of the lessor(;

(10) The signature of the lessee;

(11) One of the following statements:

(a) The mileage reflected is actual to the best of the lessee's knowledge; or

(b) The odometer reading exceeds the mechanical limits of the odometer to the best of the lessee's knowledge; or

(c) The odometer reading is not the actual mileage.

(12) The notice must include the following:

(a) Such notice is required by the Federal Truth in Mileage Act of 1986; and

(b) Failure to complete such notice or providing false information may result in fines and/or imprisonment)).

(3) The lessor shall retain each odometer disclosure statement for five years following the date they terminate a lease or transfer ownership of the leased vehicle.

AMENDATORY SECTION (Amending Order TL/RG 49, filed 7/31/89, effective 8/31/89)

WAC 308-56A-660 Odometer disclosure statement— Involuntary divestiture. ((Where involuntary divestiture occurs an odometer disclosure statement is required-)) (1) If the interest of an owner in a vehicle passes to another, other than by voluntary transfer, the transferee must complete and sign an odometer disclosure statement pursuant to RCW 46.12.124 and this chapter as the transferor.

(2) When an abandoned vehicle is sold at an abandoned vehicle auction, only the transferee needs to complete an odometer disclosure statement.

(3) When an abandoned vehicle does not sell at an abandoned vehicle auction, an odometer disclosure is not required if the vehicle is subsequently sold by the tow truck operator to a hulk hauler, wrecker or scrap processor.

(4) When an abandoned vehicle does not sell at an abandoned vehicle auction, an odometer disclosure statement is required to be completed by the tow truck operator as transferee when the vehicle ownership is transferred to the tow truck operator.

**AMENDATORY SECTION** (Amending Order TL/RG 49, filed 7/31/89, effective 8/31/89)

**WAC 308-56A-670 Odometer disclosure statement—Dealer auction companies.** (1) When ~~((the))~~ a vehicle is sold by a vehicle dealer, doing business as an auction company to a nondealer, the dealer auction company must complete the odometer disclosure statement as the transferor.

(2) Vehicle dealer auction companies must retain the following odometer records ~~((for))~~, in addition to the records required in WAC 308-56A-640, for five years on each vehicle sold:

~~((1))~~ (a) Name of the most recent owner, other than the auction company;

~~((2))~~ (b) Name of the buyer;

~~((3))~~ (c) Vehicle identification number; and

~~((4))~~ (d) Odometer reading of the vehicle for the date on which the auction company took possession of the vehicle.

**AMENDATORY SECTION** (Amending Order TL/RG 49, filed 7/31/89, effective 8/31/89)

**WAC 308-56A-680 Odometer disclosure statement—Out-of-state vehicles.** ~~((Any vehicle previously))~~ Vehicles last titled in another ~~((state))~~ vehicle licensing jurisdiction must include an odometer disclosure statement when application is made for a ~~((Washington))~~ certificate of ~~((title))~~ ownership or registration. A foreign jurisdiction odometer disclosure statement must satisfy the provisions of RCW 46.12.124 or the federal Truth in Mileage Act of 1986. Odometer disclosure statements on out-of-state titles are acceptable, provided the form is issued/approved by the foreign jurisdiction and has the appropriate odometer readings required by the Truth in Mileage Act of 1986.

**AMENDATORY SECTION** (Amending Order TL/RG 49, filed 7/31/89, effective 8/31/89)

**WAC 308-56A-690 Odometer disclosure statement—Forms.** All odometer disclosure statement forms submitted with applications for certificates of ownership must be approved by the department ~~((of licensing to ensure they are))~~ for compliance with the Federal Truth in Mileage Act of 1986.

## REPEALER

The following section of the Washington Administrative Code is repealed:

308-56A-630 Odometer disclosure statement—Exemptions.

**WSR 97-09-039  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed April 15, 1997, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-03-082.

Title of Rule: Governor's Mobile Home and Recreational Vehicle Advisory Board; recreational vehicles and park trailers, commercial coaches, factory-built commercial structures and manufactured homes.

Purpose: **Chapter 296-49 WAC, Governor's mobile home and recreational vehicle advisory board,** state-initiated proposed revisions to chapter 296-49 WAC, Governor's mobile home and recreational vehicle advisory board, are made to clarify current board policies and practices, bring the chapter into compliance with RCW 43.22.420, Factory assembled structures advisory board, and to comply with the clear rule-writing recommendation contained in chapter 34.05 RCW, Administrative Procedure Act (see RCW 34.05.220(5)). Consequently, clear rule-writing techniques have been used to rewrite the entire chapter. Following the recommendation of the Office of the Code Reviser, chapter 296-49 WAC has been repealed in its entirety and replaced with chapter 296-49A WAC. The following sections of chapter 296-49 WAC have been repealed: WAC 296-49-005 Foreword, WAC 296-49-010 Definitions, WAC 296-49-015 Officers, WAC 296-49-020 Internal management, WAC 296-49-025 Duties, WAC 296-49-030 Hearings, WAC 296-49-035 Appearance and practice before board, WAC 296-49-040 Solicitation of business unethical, WAC 296-49-045 Standards of ethical conduct, WAC 296-49-050 Appearance by former employee, WAC 296-49-055 Former employee as expert witness, WAC 296-49-060 Computation of time, and WAC 296-49-065 Administrative Procedure Act.

State-initiated proposed clear rule-writing amendments to chapter 296-49A WAC, Director's Factory Assembled Structures Advisory Board are made to:

- Move relevant existing chapter 296-49 WAC requirements into new sections in chapter 296-49A WAC.
- Rewrite the rules in a clear rule-writing style.
- Remove outdated and redundant language to make the rules easier to read.
- Use questions for section titles to better describe the information contained in each rule section and to better engage the reader.
- Use a less formal voice in the rules and eliminated the passive voice when possible.
- Reorganize some rule sections to make them easier to use.

The following sections of chapter 296-49A WAC, Director's Factory Assembled Structures Advisory Board, have been rewritten in a clear rule-writing style **without any substantive change to their content:**

WAC 296-49A-060 How are board meetings conducted?

WAC 296-49A-090 Can a person appearing before the board solicit business?

The following sections of chapter 296-49A WAC, Director's Factory Assembled Structures Advisory Board, have been rewritten in a clear rule-writing style **with state-initiated substantive changes to their content.** Basically, the state-initiated substantive changes clarify current board policies and practices and bring the chapter into compliance with RCW 43.22.420, Factory Assembled Structures Advisory Board.

**WAC 296-49A-010 What definitions apply to this chapter?** Proposed changes are made to:

- Include a definition of "section."
- Move the definitions of "regular meeting" and "special meeting" to a new section WAC 296-49A-050 When does the board meet?

**WAC 296-49A-020 What is the purpose of these rules?** Proposed changes are made to clarify, update and highlight the purpose of these rules by creating this new separate section devoted to this purpose.

**WAC 296-49A-030 What is the purpose of the board?** Proposed changes are made to clarify, update and highlight the purpose of the board by creating this new separate section devoted to this purpose.

**WAC 296-49A-040 Who are the members and officers of the board?** Proposed changes are made to:

- Clarify that board members are appointed by the director.
- Specify the term of a board members' appointment.
- Specify the size and composition of the board.
- Clarify that board members will be reimbursed for travel expenses.

**WAC 296-49A-050 When does the board meet?**

Proposed changes are made to:

- Specify the regular meeting dates of the board.
- Clarify that the director may call special board meetings.
- Clarify that regular and special meetings are open to the public.

**WAC 296-49A-070 What are the duties of the board?**

Proposed changes are made to:

- Clarify that the board must review existing FAS rules every three years and make recommendations to the director.
- Clarify that the board must review proposed rules and regulations and make recommendations to the director.
- Specify that the board neither hears appeals nor renders decisions regarding the application or interpretation of any adopted rule or regulation.
- Clarify the procedures for submitting written proposals to the board.

**WAC 296-49A-080 Who can speak at board meetings?** Proposed changes are made to:

- Clarify that anyone can speak at a board meeting.
- Clarify that anyone wishing to make a formal presentation to the board must be in good ethical standing with the board.

- Insert a reference to WAC 296-49A-100.

**WAC 296-49A-100 What standards of ethical conduct are expected of board members and persons appearing before the board?** Proposed changes are made to:

- Update this section by referencing the *State of Washington Boards and Commissions Membership Handbook*.
- Clarify that this section applies to both board members and persons appearing before the board.

**WAC 296-49A-110 What statute governs the adoption of FAS rules and regulations?** Proposed changes are made to correct an error in the reference to the Administrative Procedure Act. The correct reference is chapter 34.05 RCW not chapter 34.04 RCW.

**Chapter 296-150R WAC, Recreational vehicle and park trailers,** state-initiated proposed revisions to chapter 296-150R WAC, Recreational vehicles and park trailers, will create separate WAC chapters for recreational vehicles and recreational park trailers. Consequently, chapter 296-150R WAC, Recreational vehicles and park trailers, is being retitled to chapter 296-150R WAC, Recreational vehicles and all section headings and sections have been amended to delete any reference to recreational park trailers.

In addition, state-initiated proposed amendments to WAC 296-150R-0040 Will you keep my manufacturing information confidential? add the phrase "unless we are ordered to do so by a court or otherwise required by law" clarifying the department's obligation to release manufacturing information. Also, state-initiated proposed amendments to WAC 296-150R-0100 What happens if I disagree with the department's decision regarding my compliance with this chapter and ANSI? add clarifying language to insure that the appeals process in chapter 34.05 RCW (Administrative Procedure Act) is available to those wishing to appeal a department compliance hearing decision. **No other substantive content changes have been made in chapter 296-150R WAC.** A housekeeping change was made in WAC 296-150R-0020 What definitions apply to this chapter? correcting the address given in the definition of "department."

**Chapter 296-150P WAC, Recreational park trailers,** state-initiated proposed revisions to chapter 296-150R WAC, Recreational vehicles and park trailers, will create a separate WAC chapter for recreational park trailers. Chapter 296-150P WAC, Recreational park trailers, is dedicated solely to recreational park trailer requirements and regulations. **Substantive proposed changes in chapter 296-150P WAC, Recreational park trailers, are made to:**

- Reference all chapter language to recreational park trailers.
- Adopt the 1997 ANSI A119.5 standard for recreational park trailers.
- Add new structural system requirements for recreational park trailers based upon the 1997 edition of the ANSI recreational park trailer code (ANSI A119.5).
- Delete self-certification as a process available to recreational park trailer manufacturers because the new structural system requirements in ANSI A119.5 (1997) essentially demand that the department inspect recreational park trailers to ensure that their structural systems conform to code. There are no "functionality tests" for structural systems.

- Clarify state-plan manufacturer's responsibilities when a new ANSI code edition is adopted and their design plan and quality control manual remain identical to their original design plan (WAC 296-150P-0450(2)).
- Add the phrase "unless we are ordered to do so by a court or otherwise required by law" to WAC 296-150P-0040 to clarify the department's obligation to release manufacturing information.
- Add clarifying language to WAC 296-150P-0100 to insure that the appeals process in chapter 34.05 RCW (Administrative Procedure Act) is available to those wishing to appeal a department compliance hearing decision.

**Chapter 296-150C WAC, Commercial coaches, chapter 296-150F WAC, Factory built housing and commercial structures and chapter 296-150M WAC, Manufactured Homes,** state-initiated proposed amendments to the following sections add the phrase "unless we are ordered to do so by a court or otherwise required by law" clarifying the department's obligation to release manufacturing information.

WAC 296-150C-0040 Will you keep my manufacturing information confidential?

WAC 296-150F-0040 Will you keep my manufacturing information confidential?

WAC 296-150M-0040 Will you keep my manufacturing information confidential?

State-initiated proposed amendments to the following sections add clarifying language to insure that the appeals process in chapter 34.05 RCW (Administrative Procedure Act) is available to those wishing to appeal a department compliance hearing decision.

WAC 296-150C-0100 What happens if I disagree with the department's decision regarding my compliance with this chapter and ANSI?

WAC 296-150F-0100 What happens if I disagree with the department's decision regarding my compliance with this chapter and ANSI?

WAC 296-150M-0100 What happens if I disagree with the department's decision regarding my compliance with this chapter and ANSI?

Statutory Authority for Adoption: RCW 43.22.340 and 43.22.420.

Statute Being Implemented: Chapter 43.22 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Dan Wolfenbarger, 7273 Linderson Way, Tumwater, WA, (360) 902-5225; Implementation and Enforcement: Michael A. Silverstein, M.D., 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Since neither of the proposed rules will place an economic impact on business,

the department is not required to prepare a small business economic impact statement. The department has determined that the proposed FAS board rule is a significant legislative rule and has concluded that the benefit of a clear and understandable rule can be implemented without any expense to business.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. 1. The FAS Advisory Board revision (chapter 296-49 WAC) is considered significant because the proposed rules adopt a substantive provision of RCW 43.22.420 through delegated legislative authority.

2. The amendment of chapter 296-150R WAC, Recreational vehicles and park trailers, to create a chapter devoted solely to recreational vehicles and the creation of a new separate WAC chapter for recreational park trailers (chapter 296-150P WAC, Recreational park trailers) is being driven by a national consensus code (ANSI Code) which the department is mandated by the legislature to adopt (RCW 43.22.340), therefore, this proposed rule revision is exempt from the significant legislative rule-making criteria (RCW 34.05.328 (5)(b)(iii)).

3. The amendments to chapters 296-150C, 296-150F and 296-150M WAC are not considered significant because they merely clarify the department's obligations regarding: a. Court ordered disclosures of manufacturing information and b. the availability of the Administrative Procedure Act (chapter 34.05 RCW) appeals process to those who wish to appeal a department compliance hearing decision.

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on May 27, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact George Huffman by May 16, 1997, (360) 902-6411.

Submit Written Comments to: Department of Labor and Industries, Attention: Pete Schmidt, Program Manager for Specialty Compliance, P.O. Box 44655, Olympia, WA 98504-4655, by no later than 5:00 p.m., June 3, 1997.

In addition to written comments, the department will accept comments submitted to FAX (360) 902-5292. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: July 31, 1997.

April 8, 1997

Gary Moore

Director

### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 296-49-005	Foreword.
WAC 296-49-010	Definitions.
WAC 296-49-015	Officers.
WAC 296-49-020	Internal management.
WAC 296-49-025	Duties.
WAC 296-49-030	Hearings.
WAC 296-49-035	Appearance and practice before board.
WAC 296-49-040	Solicitation of business unethical.
WAC 296-49-045	Standards of ethical conduct.

WAC 296-49-050	Appearance by former employee.
WAC 296-49-055	Former employee as expert witness.
WAC 296-49-060	Computation of time.
WAC 296-49-065	Administrative Procedure Act.

**Chapter 296-49A WAC  
DIRECTOR'S FACTORY ASSEMBLED STRUCTURES ADVISORY BOARD**

**NEW SECTION**

**WAC 296-49A-010 What definitions apply to this chapter?** "Board" is the director's factory assembled structures advisory board.

"Department" is the Washington state department of labor and industries.

"Director" is the director of the department of labor and industries.

"Section" is the factory assembled structures (FAS) section of the department.

**NEW SECTION**

**WAC 296-49A-020 What is the purpose of these rules?** The primary purpose of these rules is to establish a uniform means of communication between the department and persons, firms or corporations engaged in the manufacture of factory assembled structures. Generally, this communication will involve either proposed WAC rule revisions or the operation of the section.

**NEW SECTION**

**WAC 296-49A-030 What is the purpose of the board?** The purpose of the board, as authorized by RCW 43.22.420, is to advise the director on all matters pertaining to the enforcement of chapter 43.22 RCW including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures and the adoption of rules and regulations pertaining to the manufacture of factory assembled structures, manufactured (mobile) homes, commercial coaches, recreational vehicles, and recreational park trailers.

**NEW SECTION**

**WAC 296-49A-040 Who are the members and officers of the board?** The board has nine members. Each is appointed by the director to a four-year term. The members must represent consumer interests, regulated industries and allied professionals. Consequently, the composition of the board will be:

- Two members representing consumers;
- Two members representing manufactured housing;
- Two members representing factory built structures;
- One member representing recreational vehicles and recreational park trailers;
- One member representing building officials; and
- One member who will either be an architect or an engineer.

The board will elect a chairperson and vice-chairperson. The department's chief prefabricated building specialist shall serve as secretary of the board.

According to RCW 43.03.050 and 43.03.060, each board member shall be paid travel expenses. Those expenses will be paid out of department appropriations upon the presentation of a voucher approved by the director or the director's designee.

**NEW SECTION**

**WAC 296-49A-050 When does the board meet?** The board holds regular quarterly meetings on the third Thursday of February, May, August and November. If needed, the director may call special meetings. Regular and special meetings are open to the public.

**NEW SECTION**

**WAC 296-49A-060 How are board meetings conducted?** The board must adopt written rules of procedure governing its internal management. These rules must include *Roberts' Rules of Order, Revised*. Upon written request, copies of these rules of procedure must be provided to all interested persons.

**NEW SECTION**

**WAC 296-49A-070 What are the duties of the board?** (1) Every three years the board must review existing FAS rules and recommend revisions if needed. Also, the board must review any new rules and regulations proposed by the director and make recommendations regarding their adoption.

(2) The board may periodically develop administrative procedures, organizational plans and rules for improving the operation of the section and submit them to the director for consideration.

(3) Upon the request of the director, the board will assist in the administrative interpretation of national codes and Washington state rules and regulations regarding all matters pertaining to the enforcement of chapter 43.22 RCW and the manufacture of factory assembled structures, manufactured (mobile) homes, commercial coaches, recreational vehicles, and recreational park trailers. This interpretative assistance will include but will not be limited to standards of body and frame design, construction and plumbing, heating and electrical installations, and minimum inspection procedures.

**However**, the board will neither function as a board of appeals nor will it render decisions regarding the application or interpretation of any adopted rule or regulation to any person, firm or corporation engaged in the business of manufacturing factory assembled structures.

(4) At any board meeting, the board must consider any written proposals made by any person, firm or corporation regarding new rules and regulations or changes in administrative procedures related to the section.

**However**, these written proposals must be submitted to the board's secretary at least fifteen days prior to the meeting so that they can be included on the meeting agenda and in the meeting packet distributed to board members. If the parties submitting these proposals wish to address them

at that meeting, their proposals must be accompanied by a written request to address the board.

#### NEW SECTION

**WAC 296-49A-080 Who can speak at board meetings?** Any person, firm or corporation can speak at board meetings. However, those persons, firms and corporations wishing to formally address the board regarding specific proposals relating to any FAS rule adoptions, amendments or repeals or changes in the section's administrative procedures must be in good ethical standing with the board. (See WAC 296-49A-100.)

#### NEW SECTION

**WAC 296-49A-090 Can a person appearing before the board solicit business?** The board considers it unethical for anyone appearing before the board to use any kind of solicitor to solicit business or to solicit business through circulars, advertisements or by personal communications or interviews unwarranted by personal relations. It is permissible to publish or circulate business cards.

#### NEW SECTION

**WAC 296-49A-100 What standards of ethical conduct are expected of board members and persons appearing before the board?** Anyone serving on the board or appearing before it must adhere to the standards described in *"Ethics and the Appearance of Fairness," State of Washington Boards and Commissions Membership Handbook*. Failure to conform to these standards may result in forfeiting the opportunity to either appear before the board or serve as a member.

#### NEW SECTION

**WAC 296-49A-110 What statute governs the adoption of FAS rules and regulations?** All FAS rules and regulations will be adopted according to chapter 34.05 RCW, the Administrative Procedure Act.

### Chapter 296-150P WAC RECREATIONAL PARK TRAILERS

#### NEW SECTION

**WAC 296-150P-0010 Authority, purpose, and scope.** (1) This chapter is authorized by RCW 43.22.335 through 43.22.434 and covers the requirements for:

(a) Obtaining state-plan status if you manufacture recreational park trailers for sale or lease in Washington state.

(b) Obtaining state-plan insignia if you manufacture recreational park trailers for sale or lease in Washington state.

(2) This chapter applies to:

(a) Manufacturers, dealers and individuals who build for sale, sell, or lease recreational park trailers in Washington state; and

(b) Manufacturers, dealers, and individuals who alter recreational park trailers for sale or lease in Washington state.

#### NEW SECTION

**WAC 296-150P-0020 What definitions apply to this chapter?** "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, structural system, plumbing systems, fuel systems and equipment or electrical systems of a recreational park trailer.

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the terms of its listing; and

- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a recreational park trailer alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational park trailers. For the purposes of this chapter, references to ANSI mean ANSI A119.5 Recreational Park Trailers, 1997 edition.

"Approved" is approved by the department of labor and industries.

"Audit" by the department is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and recreational park trailers.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, structural, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each recreational park trailer.

- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.

- Electrical drawings. (See WAC 296-150P-0330.)

"Consumer" is a person or organization who buys or leases recreational park trailers.

"Dealer" is a person or organization whose business is offering recreational park trailers for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44430, Olympia, WA 98504-4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational park trailer manufacturer.

"National Electrical Code" 1996 edition is the electrical code required for ANSI A119.5 compliance.

"Recreational park trailer" is a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode; and

• Certified by the manufacturer as complying with ANSI A119.5.

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational park trailer that is designed to serve a particular function such as plumbing, electrical, heating, mechanical or structural system.

#### NEW SECTION

##### **WAC 296-150P-0030 How is this chapter enforced?**

(1) We enforce this chapter through the state-plan insignia approval process (see WAC 296-150P-0300 through 296-150P-0720).

(2) Recreational park trailer inspections occur where the recreational park trailers are manufactured, sold, or leased. We conduct inspections during normal work hours or at other reasonable times. We may require you to remove a part of the recreational park trailer in order to conduct our inspection.

#### NEW SECTION

**WAC 296-150P-0040 Will you keep my manufacturing information confidential?** We will only release manufacturing information, such as design plans, specifications, test results, and manuals, according to the Public Records Act (see RCW 42.17.310 (1)(h)) unless we are ordered to do so by a court or otherwise required by law.

#### NEW SECTION

**WAC 296-150P-0060 Who handles consumer complaints about recreational park trailers?** (1) Consumers may file complaints with us, if they have reason to believe a manufacturer and/or dealer is in violation of this chapter and ANSI.

(2) The complaint should be in writing and describe the items that may not comply with this chapter and ANSI.

(3) After we receive the complaint, we will send the manufacturer and/or the dealer a copy of the complaint. The manufacturer and/or dealer has thirty days to respond to the complaint.

(4) If we decide an inspection is warranted and specific code violation(s) are found during the inspection, the manufacturer or dealer is charged for the inspection.

#### NEW SECTION

**WAC 296-150P-0100 What happens if I disagree with the department's decision regarding my compliance with this chapter and ANSI?** (1) If we determine that you are in violation of this chapter and ANSI, you will receive a notice of noncompliance and we may withdraw your certification. (See WAC 296-150P-0710.)

(2) If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree.

(3) After we receive your hearing request, we will:

(a) Schedule a hearing within thirty days after we receive your request.

(b) Notify you of the time, date, and place for the hearing. If you fail to appear, your case will be dismissed.

(c) Hear your case.

(d) Send you written notice of our decision.

If you disagree with our decision, you may appeal it under the Administrative Procedure Act (chapter 34.05 RCW).

#### NEW SECTION

**WAC 296-150P-0110 Do you have an advisory board to address recreational park trailer issues?** The factory assembled structures (FAS) board advises us on issues relating to plumbing, heating, electrical, installation, alterations, inspections, and rules for recreational park trailers. (See RCW 43.22.420.)

#### NEW SECTION

**WAC 296-150P-0120 Where can I obtain technical assistance regarding recreational park trailers?** We provide field technical service to recreational park trailer manufacturers for an hourly fee (see WAC 296-150P-3000). Field technical service may include an evaluation, consultation, plan examination, interpretation, and clarification of technical data relating to the application of our rules. It does not include inspections.

#### NEW SECTION

**WAC 296-150P-0130 Do you allow recreational park trailers to be displayed without an insignia?** We allow one recreational park trailer to be displayed without an insignia, if you:

(1) Get written approval from us in advance of displaying the unit; we should receive your written request at least thirty days prior to display of the unit. Your request must include:

- (a) The model and serial number of the unit;
- (b) The location where the unit will be displayed; and
- (c) The date(s) the unit will be displayed.

(2) Are licensed in Washington state through the department of licensing;

(3) Have your approval letter available at the display;

(4) Place three visible signs on the display unit:

- (a) One at the main entry door;
- (b) One inside the front of the unit; and
- (c) One inside the back of the unit.

The signs must read: NOT FOR SALE - DISPLAY ONLY. The letters on the sign must be one inch or higher.

#### **REQUIREMENTS FOR INSIGNIA AND OTHER IDENTIFICATION**

#### NEW SECTION

**WAC 296-150P-0200 Who should obtain recreational park trailer insignia?** (1) If you manufacture recreational park trailers to be sold or leased in Washington, you must purchase a state-plan insignia for each recreational park trailer.

(2) Individuals that build recreational park trailers to sell or lease in Washington must purchase an insignia.

(3) If you have a recreational park trailer with a state-plan insignia and you plan to alter or have another person alter it, you must obtain an alteration insignia from us.

Note: You do not need to purchase our insignia if you manufacture recreational park trailers in Washington for sale outside the state.

#### NEW SECTION

**WAC 296-150P-0210 How do I obtain insignia information and the forms you require?** Upon request, we will provide you with a packet of information that includes required forms and fee schedule for obtaining the state-plan insignia. Our address is noted in the definition of department.

#### NEW SECTION

**WAC 296-150P-0220 How do I obtain insignia based on state-plan approval?** (1) If you are approved to purchase insignia based on state-plan approval, you may purchase the insignia by submitting the insignia application with the required fees. (See WAC 296-150P-3000.)

(2) The application must include:

(a) A signed statement from you certifying that you are manufacturing your units according to your approved design plans and your quality control program; and

(b) A list of the approved design plans against which you will apply the insignia.

#### NEW SECTION

**WAC 296-150P-0250 How do I replace lost or damaged insignia?** (1) If an insignia is lost or damaged after it is placed on a recreational park trailer and you are the manufacturer or owner, you must notify us in writing immediately.

(2) Your notification should include the following information:

(a) Your name, address, and telephone number;

(b) The recreational park trailer serial number;

(c) The insignia number and design-plan approval number, if applicable; and

(d) The required fee. (See WAC 296-150P-3000.)

(3) If we can determine that your unit previously had an insignia, we will attach the insignia to your recreational park trailer once we receive your insignia fee. (See WAC 296-150P-3000.)

#### NEW SECTION

**WAC 296-150P-0280 What other identification is required?** Every new recreational park trailer manufactured, offered for sale or lease, or sold or leased in Washington must also have a vehicle identification number (VIN) label in compliance with the Federal Department of Transportation (DOT) safety standards.

#### NEW SECTION

**WAC 296-150P-0290 When and where should the insignia and the identification label be attached to the recreational park trailer?** (1) Insignia must be attached to

the finished recreational park trailer before it leaves the approved manufacturer's location.

(2) The state-plan insignia must be attached adjacent to the main door, on the strike side of the door, at least twelve inches above the floor line. The strike side of the door is opposite the hinge side of the door.

(3) The alteration insignia must be attached next to the certification insignia.

(4) The identification number (VIN) label must be attached on the recreational park trailer as required by the Federal Department of Transportation. Any other identification label must be attached next to the certification insignia or on the exterior front half of the left side of the recreational park trailer, at least six inches above the floor line.

### STATE PLAN

#### NEW SECTION

**WAC 296-150P-0300 What is required to obtain insignia based on state-plan approval?** If you want to obtain insignia based on state-plan approval, you must:

(1) Have your design plan and quality control manual approved by us; and

(2) Pass a quality control program audit which includes a random inspection of your recreational park trailers.

#### NEW SECTION

**WAC 296-150P-0310 What is required after I am approved as a state-plan manufacturer?** Once you have obtained approval as a state-plan manufacturer:

(1) You are required to submit comprehensive design plans to us for approval;

(2) You can inspect your own recreational park trailer based upon your quality control manual specifications; and

(3) You are subject to a semiannual audit at your manufacturing location(s).

### DESIGN PLAN

#### NEW SECTION

**WAC 296-150P-0320 How do I apply for design-plan approval?** Upon request, we will send you a design-plan approval request form.

#### NEW SECTION

**WAC 296-150P-0330 What is required for comprehensive design-plan approval?** If you are the manufacturer applying for state-plan approval:

(1) You must submit two sets of comprehensive design plans (do not send originals) to us for approval. Design plans must be accompanied by the initial filing fee, if appropriate, and the design-plan fee. (See WAC 296-150P-3000.)

(2) Your comprehensive design plan must indicate compliance with the appropriate ANSI standards in the following plans and drawings:

(a) Floor plans relating to fire and life safety, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances, and air conditioning systems, if applicable, of each recreational park trailer.

(b) Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.

(c) Electrical drawings.

(d) Structural drawings showing compliance with ANSI A119.5, Chapter 5.

Note: We will provide a check list with detailed requirements for each type of plan upon request.

(3) Current comprehensive design plans must be available at each manufacturing location.

(4) You must have an approved quality control manual. (See WAC 296-150P-0400, 296-150P-0410.)

Note: You do not need a quality control manual if you are an individual asking us to inspect a recreational park trailer.

### NEW SECTION

**WAC 296-150P-0340 What happens if you approve my design plan?** (1) Your design plan will be approved if it complies with the requirements of this chapter and ANSI.

(2) We will send you an approved copy of the design plan with the approval number.

(3) You must keep copies of the approved design plan for all models produced at the manufacturing location.

(4) If your design plan is not approved, you will be notified in writing of plan deficiencies. You may send a corrected design plan to us.

### NEW SECTION

**WAC 296-150P-0350 If my design plan is not approved, how much time do I have to submit a correct plan?** (1) You have ninety days to correct and resubmit your original design plan and send us the resubmittal fee once we notify you of plan deficiencies. After ninety days, your initial design plan is returned to you.

(2) If you submit your corrected design plan after ninety days, you must send the initial design-plan fee instead of the resubmittal fee. (See WAC 296-150R-3000.)

## QUALITY CONTROL PROGRAM/MANUAL

### NEW SECTION

**WAC 296-150P-0400 What constitutes an acceptable quality control program/manual for state-plan insignia?** Your quality control program must implement your approved quality control manual. The quality control manual must provide instructions, procedures, and assign responsibilities to assure quality control requirements are met when the recreational park trailers are manufactured. The minimum quality control manual requirements are:

(1) An organization chart which identifies quality assurance positions and describes quality control responsibilities and accountability for the following plant personnel: General manager, plant production manager, plant foreperson, lead persons, production, quality control, sales, engineering, purchasing, and receiving staff;

(2) A method to distribute all comprehensive design plans and installation instructions or other documentation that ensures all products used are installed correctly in all

recreational park trailer models produced at each manufacturing location;

(3) Procedures for maintaining the quality assurance of each recreational park trailer model;

(4) Drawings and procedures displaying manufacturing processes including a schematic plant layout;

(5) Descriptions of production stations, including surgehold stations, on-site or off-site repair-rework locations, and off-line construction sites. Descriptions should identify by station and location the work, tests, or inspections performed and the job title of the person performing the quality control review;

(6) Inspection and equipment maintenance instructions, including jig maintenance, check-off lists, and other documentation verifying quality control performance and accountability;

(7) Coordination of staff duties ensuring smooth transition of manufacturing responsibilities during the shift change;

(8) Instructions regarding the identification, control, and handling of damaged goods or materials that do not comply with existing rules and ANSI;

(9) Information about recreational park trailer material storage and environmental control including protection from the weather and the elimination of scrap and age-dated materials which have exceeded their life;

(10) Verification that testing equipment is properly calibrated and that your gauges are accurate;

(11) Information about production line testing which includes descriptions of procedures, test equipment, and the location of each test. The information should demonstrate accountability for test completion, for rework and repair, and for retesting;

(12) Instructions, procedures, descriptions, and responsibilities for insignia storage, security, application, and inventory;

(13) Procedures for mixed production lines, for variable production rates, for new or substitute personnel, and for new or changed inspections and tests;

(14) Instructions, procedures, and responsibilities for keeping recreational park trailer records which include the unit serial number, model, plan approval number, dealer location or destination, insignia number, inspection, and test results;

(15) Information about your quality control training program; and

(16) Procedures for introducing new designs, models, materials and equipment to staff that ensures products are built according to the standards and the manufacturer's instructions.

### NEW SECTION

**WAC 296-150P-0410 How do I apply to have my quality control manual approved?** We will provide the form and instructions upon request.

### NEW SECTION

**WAC 296-150P-0420 What happens if my quality control manual is approved?** (1) Your quality control manual will be approved if it meets the requirements of this chapter and ANSI.

(2) We will send you an approved copy of your quality control manual.

(3) If your quality control manual is not approved, you will be notified in writing of the deficiencies. You may send us a corrected quality control manual.

### **DESIGN PLAN/QUALITY CONTROL MANUAL— REVIEW, CHANGE/ADDENDUM, EXPIRATION, AND RENEWAL**

#### NEW SECTION

**WAC 296-150P-0440 Do I need approval to change my design plan or quality control manual after I receive state-plan approval?** (1) Once you have received state-plan approval and you want to change your design plan or quality control manual, we must approve the changes/addenda.

(2) You should send design plan or quality control manual changes to us thirty days before you want the changes/addenda to take effect.

#### NEW SECTION

**WAC 296-150P-0450 When does state-plan insignia approval expire?** (1) As a state-plan manufacturer, your approval for insignia is based upon approval of your design plan and quality control manual. Design plans are considered approved until a new ANSI code edition is adopted or unless revisions to ANSI prior to code changes would not support our design-plan approval.

(2) If, after the new ANSI code edition is adopted, your design plan and quality control manual remain identical (you may change the model name or designation) to your original design plan, you only need to submit the new plan fee and the plan approval request. **(Do not send plans.)**

Note: ANSI codes are normally adopted for a three-year period.

### **INSPECTION**

#### NEW SECTION

**WAC 296-150P-0600 When does a manufacturer, individual builder, or a dealer need to request a recreational park trailer inspection?** If you are a manufacturer, individual builder, or a dealer, you must request a recreational park trailer inspection by us:

(1) If you have approval of your design plan and quality control manual and need to complete the state-plan process;

(2) If you are making a recreational park trailer alteration which must be inspected and approved by us; or

(3) If you are correcting a violation which must be inspected and approved by us.

Note: An individual who is building a recreational park trailer to own, sell, or lease must obtain an identification number from the state patrol prior to our issuance of certification insignia.

#### NEW SECTION

**WAC 296-150P-0610 How do I request a recreational park trailer inspection and what documentation is required?** (1) Complete an inspection application which can be obtained from us.

(2) Send the completed application, application fee, and inspection fee to us prior to the date you would like an inspection performed. (See WAC 296-150P-3000.)

(3) During the inspection, have your approved design plans, specifications, and test results available for our inspector.

(4) A recreational park trailer inspection will be completed in two or more phases. The "cover" inspection during the construction of the unit before the electrical, plumbing, mechanical, heating, and structural systems are covered. The final inspection takes place after the recreational park trailer is complete.

#### NEW SECTION

**WAC 296-150P-0620 What happens if my recreational park trailer passes inspection?** (1) If your recreational park trailer passes inspection and you have met the other requirements of this chapter and ANSI, you will be approved to purchase state-plan insignia from us.

(2) If you send your insignia application and fee to us prior to the inspection, we will attach your insignia when we approve the recreational park trailer.

#### NEW SECTION

**WAC 296-150P-0630 What happens if my recreational park trailer does not pass inspection?** (1) If your recreational park trailer does not pass inspection, you will receive a notice of noncompliance.

(2) You have ten days after receiving the notice of noncompliance to send us a written response explaining how you will correct the violation(s) and prevent its reoccurrence.

(3) You are not allowed to move, sell or lease a recreational park trailer until:

(a) You correct the violation(s);

(b) We inspect and approve the correction(s); and

(c) You pay the inspection fee and the insignia fee, if required. (See WAC 296-150P-3000.)

(4) If you fail to make the corrections, the sale or lease of your recreational park trailer is prohibited by RCW 43.22.340 until the corrections are made.

Note: You will be allowed to return a recreational park trailer to the manufacturing location or to another location for correction with our approval.

#### NEW SECTION

**WAC 296-150P-0640 Am I charged if I request an inspection but I am not prepared?** (1) If you ask us to inspect recreational park trailers within Washington state but are not prepared when we arrive, you must pay the minimum inspection fee and travel.

(2) If you ask us to inspect recreational park trailers outside Washington state but are not prepared when we arrive, you must pay the minimum inspection fee, travel, and per diem expenses.

**AUDIT****NEW SECTION****WAC 296-150P-0700 What does our annual quality control program audit for state-plan insignia include?**

(1) During your annual audit for state-plan insignia, we will review your quality control program and randomly inspect your recreational park trailer.

(2) If our audit indicates that you are complying with the requirements of this chapter and ANSI, you may purchase state-plan insignia.

(3) If we discover a quality control program deficiency or a recreational park trailer violation during our audit, you will receive a notice of noncompliance and cannot purchase state-plan insignia until the deficiency or violation is corrected.

(a) You can correct the deficiency or violation during the audit; or

(b) You have fourteen days after receiving the notice of noncompliance to send us a written response explaining your correction of the deficiency or violation; and

(c) You are subject to a follow-up audit.

**LOSS OF STATE-PLAN APPROVAL****NEW SECTION**

**WAC 296-150P-0710 Can you withdraw my state-plan insignia approval?** Should you fail to meet the requirements of this chapter or ANSI after you have been approved to purchase state-plan insignia, we will withdraw your certification.

**NEW SECTION**

**WAC 296-150P-0720 What happens if my state-plan insignia approval is withdrawn?** If your state-plan insignia approval is withdrawn because you have failed to comply with this chapter and ANSI:

(1) You must return any issued but unused insignia to us; and

(2) You cannot sell or lease recreational park trailers in Washington.

**RECREATIONAL PARK TRAILER ALTERATIONS****NEW SECTION**

**WAC 296-150P-1000 Who needs approval to alter a recreational park trailer?** Any alteration by a manufacturer, dealer, or individual to a recreational park trailer with state-certified insignia must be approved by us before the alteration is made. "Alteration" is defined in WAC 296-150P-0020.

**Note:** We may remove your insignia if you alter or have someone alter a recreational park trailer without our approval.

**NEW SECTION**

**WAC 296-150P-1010 Must I purchase a separate insignia for an alteration?** You are required to purchase an alteration insignia from us.

**NEW SECTION**

**WAC 296-150P-1020 How do I apply for alteration approval and obtain the alteration insignia?** (1) To apply for alteration approval and the alteration insignia, you must:

(a) Complete an alteration permit form and an application for alteration insignia. We will provide the forms.

(b) Submit the completed forms, with the inspection fee and altered recreational park trailer insignia fee, to us. (See WAC 296-150P-3000.)

(2) Our recreational park trailer inspection of the alteration will be in two or more phases. The "cover" inspection during the alteration of the unit before the electrical, plumbing, mechanical, heating, structural or other systems are covered. The final inspection takes place after the alteration inspection is complete.

(3) Once we approve your alteration, we will attach the alteration insignia.

**MANUFACTURER'S NOTICE  
TO THE DEPARTMENT****NEW SECTION**

**WAC 296-150P-2000 Must state-plan manufacturers notify you if they manufacture at more than one location?** (1) We must approve each recreational park trailer manufacturing location producing units for sale or lease in Washington state.

(2) You must send us the following information for each manufacturing location when you are certified:

(a) Company name;

(b) Mailing and physical address;

(c) Phone and FAX number if available;

(d) Type of recreational park trailer(s) manufactured;

(e) Contact person for plan review; and

(f) Contact person for plant audit.

(3) You must update the information as it changes.

**NEW SECTION**

**WAC 296-150P-2010 Must state-plan manufacturers notify you if they change a business name or address?**

(1) If you are moving your business from an approved manufacturing location, the new location must be approved before shipping units from that location for sale or lease in Washington state.

(2) You must notify us in writing prior to a change of business name or address.

**NEW SECTION**

**WAC 296-150P-2020 Must state-plan manufacturers notify you of a change in business ownership?** (1) When a recreational park trailer manufacturing business changes ownership, the new owner must notify us in writing immediately.

(2) A new owner may continue to manufacture recreational park trailers using approved design plans or comprehensive design plans according to this chapter.

(3) The department will perform an audit of the manufacturer after the ownership change to ensure you are meeting the requirements of this chapter and ANSI.

NEW SECTION

**WAC 296-150P-2030 Must state-plan manufacturers notify you of their Washington dealers?** (1) You must send us the following information about yourself and each of your Washington dealers when you are certified:

- (a) Dealership name;
  - (b) Mailing and physical address;
  - (c) Phone and FAX number if available;
  - (d) Type of recreational park trailer(s); and
  - (e) Contact person.
- (2) You must update this information as it changes.

PROPOSED

**RECREATIONAL PARK TRAILER FEES**

NEW SECTION

WAC 296-150P-3000 Recreational park trailer fees.

<b>WAC 296-150P-3000 RECREATIONAL PARK TRAILER FEES</b>	
<b>STATE PLAN</b>	
INITIAL FILING FEE	\$26.00
<b>DESIGN PLAN</b>	
NEW PLAN REVIEW FEE	\$73.00
RESUBMIT FEE	\$52.00
ADDENDUM	\$52.00
<b>STATE PLAN/MANUAL FEES</b>	
INITIAL APPROVAL	\$10.25
RESUBMITTAL	\$52.00
ADDENDUM	\$52.00
<b>DEPARTMENT AUDIT FEES</b>	
AUDIT (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES</b>	
STATE CERTIFIED	\$10.00
ALTERATION	\$26.00
REISSUED-LOST/DAMAGED	\$10.00
FIELD TECHNICAL SERVICE FEE (PER HR.)	\$52.00
*Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments.	
**Per state guidelines.	
***Actual charges incurred.	

PROPOSED

**Chapter 296-150R WAC  
RECREATIONAL VEHICLES ((~~AND PARK TRAILERS~~))**

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0010 Authority, purpose, and scope.**

(1) This chapter is authorized by RCW ((~~43.22.340~~)) 43.22.335 through 43.22.434 and covers the requirements for:

(a) Obtaining state-plan or self-certified status if you manufacture recreational vehicles ((~~or park trailers~~)) for sale or lease in Washington state.

(b) Obtaining state-plan or self-certified insignia if you manufacture recreational vehicles ((~~or park trailers~~)) for sale or lease in Washington state.

(2) This chapter applies to:

(a) Manufacturers, dealers and individuals who build for sale, sell, or lease recreational vehicles ((~~or park trailers~~)) in Washington state; and

(b) Manufacturers, dealers, and individuals who alter recreational vehicles ((~~and park trailers~~)) for sale or lease in Washington state.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0020 What definitions apply to this chapter?** "Alteration" is the replacement, addition, modification, or removal of any equipment or material that affects the fire and life safety provisions, plumbing systems, fuel systems and equipment or electrical systems of a recreational vehicle ((~~or park trailer~~)).

The following changes are not considered alterations for purposes of this chapter:

- Repairs with approved parts;
- Modification of a fuel burning appliance according to the terms of its listing; and
- Adjustment and maintenance of equipment.

"Alteration insignia" is an insignia which indicates a vehicle alteration was approved by the department.

"ANSI" is the American National Standards Institute, Inc., and the institute's rules applicable to recreational vehicles ((~~and park trailers~~)). For the purposes of this chapter, references to ANSI mean ANSI A119.2 Recreational Vehicles, 1996 edition((~~, and ANSI A119.5 Park Trailers, 1993 edition, as appropriate~~)).

"Approved" is approved by the department of labor and industries.

"Audit" by the department can be either a comprehensive audit or a performance audit. A comprehensive audit is the department inspection of a manufacturer's quality control procedures, comprehensive plans, and vehicles. A performance audit is the department's review of the manufacturer's audit performed by the industry association or other independent auditor.

"Comprehensive design plan" consists of the design plans and copies of drawings such as:

- Floor plans relating to fire and life safety, electrical, plumbing, liquefied petroleum (LP) and/or natural gas systems and appliances and air conditioning systems, if applicable to the plan of each vehicle.

- Plumbing line drawings which describe the size, length and location of gas piping lines, liquid and body waste lines, liquid and body waste tanks, and potable water tanks.

- Electrical drawings. (See WAC 296-150R-0330 and 296-150R-0820.)

"Consumer" is a person or organization who buys or leases recreational vehicles ((~~or park trailers~~)).

"Dealer" is a person or organization whose business is offering recreational vehicles ((~~or park trailers~~)) for sale or lease.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box ((44440)) 44430, Olympia, WA 98504-((4440)) 4430.

"Equipment" is all material, appliances, fixtures, and accessories used in the manufacture or alteration of recreational vehicles or park trailers.

"Manual" is a reference containing instructions, procedures, responsibilities and other information used to implement and maintain the quality control program of a recreational vehicle ((~~or park trailer~~)) manufacturer.

"National Electrical Code" 1996 edition is the electrical code required for ANSI A119.2 compliance. ((~~The National Electrical Code 1993 edition is the electrical code required for ANSI A119.5 compliance.~~)

"Park trailer" is a trailer type unit that is primarily designed to provide temporary living quarters for recreational, camping or seasonal use, that meets the following criteria:

- Built on a single chassis, mounted on wheels;
- Having a gross trailer area in the set up mode of less than 400 square feet (37.2 square meters); and
- Certified by the manufacturer as complying with ANSI A119.5-)

"Quality control" is the plan and method for ensuring that the manufacture, fabrication, assembly, installation, storing, handling, and use of materials complies with this chapter and ANSI.

"Recreational vehicle" is a vehicular type unit primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers.

"Self-certification insignia" is an insignia which is obtained under the self-certification approval process.

"State-plan insignia" is an insignia which is obtained under the state design-plan approval process.

"System" is a part of a recreational vehicle ((~~or park trailer~~)) that is designed to serve a particular function such as plumbing, electrical, heating, or mechanical system.

"Vehicle" for the purposes of this chapter, is a recreational vehicle ((~~or a park trailer~~)).

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0030 How is this chapter enforced?**

(1) We enforce this chapter through:

- (a) The state plan insignia approval process (see WAC 296-150R-0300 through 296-150R-0720); or

(b) The self-certification insignia approval process (see WAC 296-150R-0800 through 296-150R-0930).

(2) Vehicle inspections occur where the recreational vehicles (~~(or park trailers)~~) are manufactured, sold, or leased. We conduct inspections during normal work hours or at other reasonable times. We may require you to remove a part of the recreational vehicle (~~(or park trailer)~~) in order to conduct our inspection.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0040 Will you keep my manufacturing information confidential?** We will only release manufacturing information, such as design plans, specifications, test results, and manuals, according to the Public Records Act((-)) (see RCW 42.17.310 (1)(h)((-))) unless we are ordered to do so by a court or otherwise required by law.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0060 Who handles consumer complaints about recreational vehicles (~~(and park trailers)~~)?** (1) Consumers may file complaints with us, if they have reason to believe a manufacturer and/or dealer is in violation of this chapter and ANSI.

(2) The complaint should be in writing and describe the items that may not comply with this chapter and ANSI.

(3) After we receive the complaint, we will send the manufacturer and/or the dealer a copy of the complaint. The manufacturer and/or dealer has thirty days to respond to the complaint.

(4) If we decide an inspection is warranted and specific code violation(s) are found during the inspection, the manufacturer or dealer is charged for the inspection.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0100 What happens if I disagree with the department's decision regarding my compliance with this chapter and ANSI?** (1) If we determine that you are in violation of this chapter and ANSI, you will receive a notice of noncompliance and we may withdraw your certification. (See WAC 296-150R-0710, 296-150R-0920.)

(2) If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree.

(3) After we receive your hearing request, we will:

(a) Schedule a hearing within thirty days after we receive your request.

(b) Notify you of the time, date, and place for the hearing. If you fail to appear, your case will be dismissed.

(c) Hear your case.

(d) Send you written notice of our decision.

If you disagree with our decision, you may appeal it under the Administrative Procedure Act (chapter 34.05 RCW).

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0110 Do you have an advisory board to address recreational vehicle (~~(and park trailer)~~) issues?** The factory assembled structures (FAS) board advises us on issues relating to plumbing, heating, electrical, installation, alterations, inspections, and rules for recreational vehicles (~~(and park trailers)~~). (See RCW 43.22.420.)

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0120 Where can I obtain technical assistance regarding recreational vehicles (~~(and park trailers)~~)?** We provide field technical service to recreational vehicle (~~(and park trailer)~~) manufacturers for an hourly fee (see WAC 296-150R-3000). Field technical service may include an evaluation, consultation, plan examination, interpretation, and clarification of technical data relating to the application of our rules. It does not include inspections.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0130 Do you allow recreational vehicles (~~(and park trailers)~~) to be displayed without an insignia?** We allow one recreational vehicle (~~(or park trailer)~~) to be displayed without an insignia, if you:

(1) Get written approval from us in advance of displaying the unit; we should receive your written request at least thirty days prior to display of the unit. Your request must include:

(a) The model and serial number of the unit;

(b) The location where the unit will be displayed; and

(c) The date(s) the unit will be displayed.

(2) Are licensed in Washington state through the department of licensing;

(3) Have your approval letter available at the display;

(4) Place three visible signs on the display unit:

(a) One at the main entry door;

(b) One inside the front of the unit; and

(c) One inside the back of the unit.

The signs must read: *Not For Sale - Display Only.*

The letters on the sign must be one inch or higher.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0200 Who should obtain recreational vehicle (~~(and park trailer)~~) insignia?** (1) If you manufacture recreational vehicles (~~(or park trailers)~~) to be sold or leased in Washington, you must purchase either a state-plan or self-certified insignia for each vehicle.

(2) Individuals that build recreational vehicles (~~(or park trailers)~~) to sell or lease in Washington must purchase an insignia.

(3) If you have a vehicle with either a state-plan or self-certified insignia and you plan to alter or have another person alter it, you must obtain an alteration insignia from us.

Note: You do not need to purchase our insignia if you manufacture recreational vehicles (~~(or park trailers)~~) in Washington for sale outside the state.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0250 How do I replace lost or damaged insignia?** (1) If an insignia is lost or damaged after it is placed on a recreational vehicle (~~(or park trailer)~~) and you are the manufacturer or owner, you must notify us in writing immediately.

(2) Your notification should include the following information:

- (a) Your name, address, and telephone number;
  - (b) The vehicle identification number or serial number and model;
  - (c) The insignia number and design-plan approval number, if applicable; and
  - (d) The required fee. (See WAC 296-150R-3000.)
- (3) If we can determine that your unit previously had an insignia, we will attach the insignia to your vehicle once we receive your insignia fee. (See WAC 296-150R-3000.)

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0280 What other vehicle identification is required?** Every *new* recreational vehicle (~~(or park trailer)~~) manufactured, offered for sale or lease, or sold or leased in Washington must also have a vehicle identification number (VIN) label in compliance with the Federal Department of Transportation (DOT) safety standards.

Note: Truck campers do not require a vehicle identification number (VIN). They have a manufacturer's serial number.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0400 What constitutes an acceptable quality control program/manual for state-plan insignia?** Your quality control program must implement your approved quality control manual. The quality control manual must provide instructions, procedures, and assign responsibilities to assure quality control requirements are met when vehicles are manufactured. The minimum quality control manual requirements are:

(1) An organization chart which identifies quality assurance positions and describes quality control responsibilities and accountability for the following plant personnel: General manager, plant production manager, plant foreperson, lead persons, production, quality control, sales, engineering, purchasing, and receiving staff;

(2) A method to distribute all comprehensive design plans and installation instructions or other documentation that ensures all products used are installed correctly in all recreational vehicle (~~(or park trailer)~~) models produced at each manufacturing location;

(3) Procedures for maintaining the quality assurance of each vehicle model;

(4) Drawings and procedures displaying manufacturing processes including a schematic plant layout;

(5) Descriptions of production stations, including surge-hold stations, on-site or off-site repair-rework locations, and off-line construction sites. Descriptions should identify by station and location the work, tests, or inspections performed

and the job title of the person performing the quality control review;

(6) Inspection and equipment maintenance instructions, including jig maintenance, check-off lists, and other documentation verifying quality control performance and accountability;

(7) Coordination of staff duties ensuring smooth transition of manufacturing responsibilities during the shift change;

(8) Instructions regarding the identification, control, and handling of damaged goods or materials that do not comply with existing rules and ANSI;

(9) Information about recreational vehicle (~~(and park trailer)~~) material storage and environmental control including protection from the weather and the elimination of scrap and age-dated materials which have exceeded their life;

(10) Verification that testing equipment is properly calibrated and that your gauges are accurate;

(11) Information about production line testing which includes descriptions of procedures, test equipment, and the location of each test. The information should demonstrate accountability for test completion, for rework and repair, and for retesting;

(12) Instructions, procedures, descriptions, and responsibilities for insignia storage, security, application, and inventory;

(13) Procedures for mixed production lines, for variable production rates, for new or substitute personnel, and for new or changed inspections and tests;

(14) Instructions, procedures, and responsibilities for keeping vehicle records which include the unit serial number, model, plan approval number, dealer location or destination, insignia number, inspection, and test results;

(15) Information about your quality control training program; and

(16) Procedures for introducing new designs, models, materials and equipment to staff that ensures products are built according to the standards and the manufacturer's instructions.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0640 Am I charged if I request an inspection but I am not prepared?** (1) If you ask us to inspect recreational vehicles (~~(or park trailers)~~) within Washington state but are not prepared when we arrive, you must pay the minimum inspection fee and travel.

(2) If you ask us to inspect recreational vehicles (~~(or park trailers)~~) outside Washington state but are not prepared when we arrive, you must pay the minimum inspection fee, travel, and per diem expenses.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-0850 What constitutes an acceptable quality control program/manual for self-certification?** Your quality control program must implement your approved quality control manual. The quality control manual must provide instructions, procedures, and assign responsibilities to assure quality control expectations are met when vehicles

are manufactured. The minimum quality control manual requirements are:

(1) An organization chart which identifies quality assurance positions and describes quality control responsibilities and accountability for the following plant personnel: General manager, plant production manager, plant foreperson, lead persons, production, quality control, sales, engineering, purchasing and receiving staff;

(2) A method to distribute all comprehensive design plans and installation instructions or other documentation that ensures all products used are installed correctly in all recreational vehicle (~~(or park trailer)~~) models produced at each manufacturing location;

(3) Procedures for maintaining the quality assurance of each vehicle model;

(4) Drawings and procedures displaying manufacturing processes including a schematic plant layout;

(5) Descriptions of production stations, including surge-hold stations, on-site or off-site repair-rework locations, and off-line construction sites. Descriptions should identify by station and location the work, tests, or inspections performed and the job title of the person performing the quality control review;

(6) Inspection and equipment maintenance instructions, including jig maintenance, check-off lists, and other documentation verifying quality control performance and accountability;

(7) Coordination of staff duties ensuring smooth transition of manufacturing responsibilities during the shift change;

(8) Instructions regarding the identification, control, and handling of damaged goods or materials that do not comply with existing rules and ANSI;

(9) Information about recreational vehicle (~~(and park trailer)~~) material storage and environmental control including protection from the weather and the elimination of scrap and age-dated materials which have exceeded their life;

(10) Verification that testing equipment is properly calibrated and that your gauges are accurate;

(11) Information about production line testing which includes descriptions of procedures, test equipment, and the location of each test. The information should demonstrate accountability for test completion, for rework and repair, and for retesting;

(12) Instructions, procedures, descriptions, and responsibilities for insignia storage, security, application, and inventory;

(13) Procedures for mixed production lines, for variable production rates, for new or substitute personnel, and for new or changed inspections and tests;

(14) Instructions, procedures, and responsibilities for keeping vehicle records which include the unit serial number, model, plan approval number (if applicable), dealer location or destination, insignia number, inspection, and test results;

(15) Information about your quality control training program;

(16) Procedures for introducing new designs, models, materials and equipment to staff that ensures products are built according to the standards and the manufacturer's instructions; and

(17) Written authorization as required in WAC 296-150R-0800(5).

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-1000 Who needs approval to alter a recreational vehicle (~~(or park trailer)~~)?** (1) Any alteration by a manufacturer, dealer, or individual to a vehicle with state-certified insignia must be approved by us before the alteration is made. "Alteration" is defined in WAC 296-150R-0020.

(2) Any alteration by a manufacturer, dealer, or individual to a vehicle with self-certified insignia after it leaves the manufacturer's location must be approved by us before the alteration is made.

Note: We may remove your insignia if you alter or have someone alter a vehicle without our approval.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-2000 Must state-plan and self-certified manufacturers notify you if they manufacture at more than one location?** (1) We must approve each recreational vehicle (~~(and park trailer)~~) manufacturing location producing units for sale or lease in Washington state.

(2) You must send us the following information for each manufacturing location when you are certified:

- (a) Company name;
  - (b) Mailing and physical address;
  - (c) Phone and FAX number if available;
  - (d) Type of recreational vehicle(s) manufactured;
  - (e) Contact person for plan review; and
  - (f) Contact person for plant audit.
- (3) You must update the information as it changes.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-2020 Must state-plan and self-certified manufacturers notify you of a change in business ownership?** (1) When a recreational vehicle (~~(or park trailer)~~) manufacturing business changes ownership, the new owner must notify us in writing immediately.

(2) A new owner may continue to manufacture vehicles using approved design plans or comprehensive design plans according to this chapter.

(3) The department will perform a comprehensive audit of the manufacturer after the ownership change to ensure you are meeting the requirements of this chapter and ANSI.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150R-3000 ((Table of) Recreational vehicle ((and park trailer)) fees ((for insignia approval)).**

PROPOSED

WAC 296-150R-3000 RECREATIONAL VEHICLE FEES			
<b>STATE PLAN</b>		<b>SELF CERTIFICATION</b>	
INITIAL FILING FEE	\$26.00	INITIAL FILING FEE	\$26.00
<b>DESIGN PLAN</b>		<b>DESIGN PLAN</b>	
NEW PLAN REVIEW FEE	\$73.00	NEW PLAN REVIEW FEE (ONE TIME FEE)	\$73.00
RESUBMIT FEE	\$52.00	RESUBMIT FEE	\$52.00
ADDENDUM	\$52.00	ADDENDUM	\$52.00
<b>STATE PLAN/MANUAL FEES</b>		<b>SELF CERTIFICATION/MANUAL FEES</b>	
INITIAL APPROVAL	\$10.25	INITIAL APPROVAL	\$10.25
RESUBMITTAL	\$52.00	RESUBMITTAL	\$52.00
ADDENDUM	\$52.00	ADDENDUM	\$52.00
<b>DEPARTMENT AUDIT FEES</b>		<b>DEPARTMENT AUDIT FEES</b>	
AUDIT (PER HOUR)*	\$52.00	AUDIT (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00	TRAVEL (PER HOUR)*	\$52.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	
<b>DEPARTMENT INSPECTION FEES</b>		<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION (PER HOUR)*	\$52.00	INSPECTION (PER HOUR)*	\$52.00
TRAVEL (PER HOUR)*	\$52.00	TRAVEL (PER HOUR)*	\$52.00
PER DIEM**		PER DIEM**	
HOTEL***		HOTEL***	
MILEAGE**		MILEAGE**	
RENTAL CAR***		RENTAL CAR***	
PARKING***		PARKING***	
AIRFARE***		AIRFARE***	
<b>INSIGNIA FEES</b>		<b>INSIGNIA FEES</b>	
STATE CERTIFIED	\$10.00	SELF CERTIFIED	\$10.00
ALTERATION	\$26.00	ALTERATION	\$26.00
REISSUED-LOST/DAMAGED	\$10.00	REISSUED-LOST/DAMAGED	\$10.00
FIELD TECHNICAL SERVICE FEE (PER HR.)	\$52.00		
* Minimum charge of 1 hour for inspection; time spent greater than 1 hour is charged in 1/2 hour increments			
** Per state guidelines.			
***Actual charges incurred.			

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150C-0040 Will you keep my manufacturing information confidential?** We will only release manufacturing information such as design plans, specifications, and test results according to the requirements of the Public Records Act((-)) (see RCW 42.17.310 (1)(h)((-))) unless we are ordered to do so by a court or otherwise required by law.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150C-0100 What happens if I disagree with your decision regarding my compliance with this chapter?** (1) If we determine that you are in violation of this chapter, you will receive a notice of noncompliance. (See WAC 296-150C-0560.)

(2) If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree.

(3) After we receive your hearing request, we will:

(a) Schedule a hearing within thirty days after we receive your request.

(b) Notify you of the time, date, and place for the hearing. If you fail to appear, your case will be dismissed.

(c) Hear your case.

(d) Send you written notice of our decision.

If you disagree with our decision, you may appeal it under the Administrative Procedure Act (chapter 34.05 RCW).

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150F-0040 Will you keep my manufacturing information confidential?** We will only release manufacturing information such as design plans, specifications, and test results according to the requirements of the Public Records Act((-)) (see RCW 42.17.310 (1)(h)((-))) unless we are ordered to do so by a court or otherwise required by law.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150F-0100 What happens if I disagree with your decision regarding my compliance with this chapter?** (1) If we determine you are in violation of this chapter, you will receive a notice of noncompliance.

(2) If you disagree with our decision, you can send us a written request for a hearing, stating why you disagree.

(3) After we receive your hearing request, we will:

(a) Schedule a hearing within thirty days after we receive your request.

(b) Notify you of the time, date, and place for the hearing. If you fail to appear, your case will be dismissed.

(c) Hear your case.

(d) Send you written notice of our decision.

If you disagree with our decision, you may appeal it under the Administrative Procedure Act (chapter 34.05 RCW).

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150M-0040 Will you keep my manufacturing information confidential?** We will only release manufacturing information such as design plans for structural alterations according to the requirements of the Public Records Act((-)) (see RCW 42.17.310 (1)(h)((-))) unless we are ordered to do so by a court or otherwise required by law.

AMENDATORY SECTION (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150M-0100 What happens if I disagree with your decision regarding my compliance with the federal standards, ANSI, or this chapter?** (1) If we determine that you are in violation with the federal standards, ANSI A225.1, or this chapter, you will receive a notice of noncompliance.

(2) If you disagree with our decision, you can submit a written request for a hearing, stating why you disagree.

(3) After we receive your hearing request, we will:

(a) Schedule a hearing within thirty days after we receive your request.

(b) Notify you of the time, date, and place for the hearing. If you fail to appear, your case will be dismissed.

(c) Hear your case.

(d) Send you written notice of our decision.

If you disagree with our decision, you may appeal it under the Administrative Procedure Act (chapter 34.05 RCW).

#### WSR 97-09-040

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF FISH AND WILDLIFE

(Fisheries)

(By the Code Reviser's Office)

[Filed April 15, 1997, 1:28 p.m.]

WAC 220-130-020, 220-130-070, 220-140-010 and 220-140-040, proposed by the Department of Fish and Wildlife in WSR 96-20-122, appearing in issue 96-20 of the State Register, which was distributed on October 16, 1996, 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 97-09-041

#### WITHDRAWAL OF PROPOSED RULES FOREST PRACTICES BOARD

(By the Code Reviser's Office)

[Filed April 15, 1997, 1:29 p.m.]

WAC 222-16-081, proposed by the Forest Practices Board in WSR 96-20-120, appearing in issue 96-20 of the State Register, which was distributed on October 16, 1996, 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 97-09-042**

**WITHDRAWAL OF PROPOSED RULES  
BUILDING CODE COUNCIL**

(By the Code Reviser's Office)

[Filed April 15, 1997, 1:30 p.m.]

WAC 51-32-1119, proposed by the Building Code Council in WSR 96-20-101, appearing in issue 96-20 of the State Register, which was distributed on October 16, 1996, 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 97-09-043**

**WITHDRAWAL OF PROPOSED RULES  
JOINT CENTER FOR  
HIGHER EDUCATION**

(By the Code Reviser's Office)

[Filed April 15, 1997, 1:31 p.m.]

Chapter 249A-02 WAC, proposed by the Joint Center for Higher Education in WSR 96-20-062, appearing in issue 96-20 of the State Register, which was distributed on October 16, 1996, 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 97-09-057**

**WITHDRAWAL OF PROPOSED RULES  
COMMISSION ON  
JUDICIAL CONDUCT**

[Filed April 21, 1997, 8:22 a.m.]

Proposed WAC 292-11-030 filed with your office under WSR 96-21-130 and distributed in the 96-21 State Register is withdrawn.

David Akana

**WSR 97-09-061**

**WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF HEALTH**

[Filed April 21, 1997, 2:10 p.m.]

This is a request to withdraw WAC 246-840-030 which was filed March 19, 1997, and published under WSR 97-07-074. The section was part of an effort to combine the RN and LPN chapters under one new chapter. Upon additional review, the Nursing Commission determined that this section

requires some additional amendments and will be resubmitted as part of another rules package.

Individuals requiring information on chapter 246-840 WAC should contact Kris McLaughlin [McLaughlin] at (360) 586-1355.

Bruce A. Miyahara  
Secretary

**WSR 97-09-065**

**PROPOSED RULES  
DEPARTMENT OF  
NATURAL RESOURCES**

[Order 640—Filed April 21, 1997, 3:22 p.m.]

Original Notice.

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

Title of Rule: Specific rules for burning that require a written burning permit.

Purpose: Set fees for permits to burn forest debris and specify other conditions for written burning permits.

Statutory Authority for Adoption: RCW 70.94.660 and 76.04.205.

Statute Being Implemented: RCW 70.94.660 and 76.04.205.

Summary: Amend the fee schedule to increase fees by 4.05 percent as directed under RCW 70.94.660.

Reasons Supporting Proposal: The department is required by RCW 76.04.660 to set fees at a level necessary to support the program. The fee increase will account for inflation in program costs over the last year.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Gray, Olympia, 902-1300.

Name of Proponent: Department of Natural Resources, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Clean Air Act requires the Department of Natural Resources to take responsibility for issuing and regulating burn permits where the Department of Natural Resources has protection responsibilities. The act also requires the Department of Natural Resources to assess fees for its permits, and that fees be set at a level to recover costs of the program.

Fees will be adjusted by 4.05 percent, amount allowed under RCW 43.135.055. The purpose of the proposed change is to adjust the burning permit fee schedule to a level necessary to cover costs of the smoke management program. Fees will be adjusted by 4.05 percent, the amount allowed under RCW 43.135.055. This will result in a one dollar increase for 90% of permittees, and no more than a fourteen dollar increase for 99% of all burns.

Proposal Changes the Following Existing Rules: The proposal adjusts the fee schedule in WAC 332-24-221 by the amount allowed under RCW 43.135.055.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The fee increase will be seventy-five cents for 90% of all permits issued. The

rule does not impose more than minor costs on more than twenty percent of all industries or more than ten percent of one industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Rules that set or adjust fees or rates pursuant to legislative standards are exempt from section 201, chapter 403, laws of 1995.

Hearing Location: Natural Resources Building, Room 172, 1111 Washington Street S.E., Olympia, WA, on May 29, 1997, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Mark Gray by May 23, 1997, TDD (360) 902-1156.

Submit Written Comments to: Mark Gray, FAX (360) 902-1757, by May 29, 1997.

Date of Intended Adoption: May 30, 1997.

April 18, 1997

Kaleen Cottingham

Supervisor

**AMENDATORY SECTION** (Amending WSR 96-12-020, filed 5/29/96, effective 7/1/96)

**WAC 332-24-221 Specific rules for burning that requires a written burning permit.** Persons not able to meet the requirements of WAC 332-24-205 and 332-24-211 must apply for a written burning permit through the department. In addition to the rules outlined in WAC 332-24-205, the following are additional requirements for written permits:

(1) Written burning permits will be in effect for one year from the validation date, unless suspended or revoked.

(2) Fees for written burning permits will be charged and collected pursuant to chapter 70.94 RCW and shall be twenty-three dollars seventy-five cents for under one hundred tons of consumable debris; and for burns one hundred tons of consumable debris and greater as follows:

Consumable Debris	Fee schedule
100 - 500 tons	<del>(\$115)</del> <u>\$119</u>
501 - 1,000 tons	<del>(350)</del> <u>364</u>
1,001 - 1,500 tons	<del>(583)</del> <u>606</u>
1,501 - 2,000 tons	<del>(817)</del> <u>850</u>
2,001 - 2,500 tons	<del>(1,051)</del> <u>1,093</u>
2,501 - 3,000 tons	<del>(1,285)</del> <u>1,337</u>
3,001 - 3,500 tons	<del>(1,517)</del> <u>1,578</u>
3,501 - 4,000 tons	<del>(1,751)</del> <u>1,821</u>
4,001 - 4,500 tons	<del>(1,985)</del> <u>2,065</u>
4,501 - 5,000 tons	<del>(2,219)</del> <u>2,308</u>
5,001 - 5,500 tons	<del>(2,453)</del> <u>2,552</u>
5,501 - 6,000 tons	<del>(2,687)</del> <u>2,795</u>
6,001 - 6,500 tons	<del>(2,921)</del> <u>3,039</u>
6,501 - 7,000 tons	<del>(3,155)</del> <u>3,282</u>
7,001 - 7,500 tons	<del>(3,389)</del> <u>3,526</u>
7,501 - 8,000 tons	<del>(3,623)</del> <u>3,769</u>
8,001 - 8,500 tons	<del>(3,857)</del> <u>4,013</u>
8,501 - 9,000 tons	<del>(4,091)</del> <u>4,256</u>
9,001 - 9,500 tons	<del>(4,325)</del> <u>4,500</u>
9,501 - 10,000 tons	<del>(4,557)</del> <u>4,741</u>
10,001 + tons	<del>(4,791)</del> <u>4,985</u>

For purposes of this section, consumable debris is the amount of debris that the department determines will be consumed by the proposed burning.

(3) Written burning permits are not considered valid unless all of the following conditions apply:

(a) The written permit has been signed by the applicant agreeing to follow all requirements of chapter 332-24 WAC, the smoke management plan in effect at the time of the burning, and any additional terms and conditions specified by the department in writing; and

(b) The required permit fee has been secured or paid according to approved department procedures; and

(c) The person doing the burning has the permit in possession while burning and is complying with all terms and conditions of such permit, the smoke management plan in effect at the time of the burning, and all applicable portions of chapter 332-24 WAC.

(4) Permits are written only for the burn site and fuel quantity that is presented at the time of the inspection. Addition of fuel, or changing the burn site after the site inspection has been made, is prohibited unless a new inspection is made and an added permit fee is paid, if required.

**WSR 97-09-069  
PROPOSED RULES  
WASHINGTON STATE PATROL**  
[Filed April 22, 1997, 8:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-100.

Title of Rule: WAC 204-72-040(4) Fog lamps.

Purpose: To bring WAC 204-72-040(4) into compliance with state law, RCW 46.37.180(2).

Statutory Authority for Adoption: RCW 46.37.005 and 46.37.180.

Summary: The amendment to this rule will ensure motorists only use fog lamps with the low beam headlamps as indicated by RCW 46.37.180(2).

Reasons Supporting Proposal: RCW 46.37.180(2).

Name of Agency Personnel Responsible for Drafting: Ms. Carol Morton, P.O. Box 42635, Olympia, WA, (360) 412-8934; Implementation and Enforcement: Captain Tim Erickson, P.O. Box 42614, Olympia, WA, (360) 753-0350.

Name of Proponent: Washington State Patrol, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment ensures that motorists only use fog lamps with the low beam headlamps. The current WAC states that fog lamps may be used at the driver's discretion with either low or high.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Motorists are already required by RCW 46.37.180(2) to use only low beam headlamps with their fog lamps.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: State Patrol, Commercial Vehicle Division, Conference Room, Ground Floor, General Admin-

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istration Building, Olympia, Washington, on May 27, 1997, at 9 a.m.

Assistance for Persons with Disabilities: Contact Kendra Hensley by May 20, 1997, (360) 753-0678.

Submit Written Comments to: Carol Morton, P.O. Box 42635, Olympia, WA 98504-2635, FAX (360) 493-9090, by May 20, 1997.

Date of Intended Adoption: June 3, 1997.

April 16, 1997  
Annette M. Sandberg  
Chief

**AMENDATORY SECTION** (Amending Order 80-12-01, filed 12/5/80)

**WAC 204-72-040 Mounting requirements, specific.**

(1) Clearance, sidemarker, and identification lamps.

(a) Clearance lamps, sidemarker lamps, and combination clearance and sidemarker lamps shall be mounted as specified in FMVSS 108, except for combination clearance and sidemarker lamps on pole trailers which shall be mounted as required by RCW 46.37.090 (5)(c). On vehicles manufactured prior to May 1, 1980, clearance lamps need not be visible at the inboard angles, and clearance and sidemarker lamps need not comply with the mounting height requirements of FMVSS 108.

(b) Identification lamps shall be mounted as specified in FMVSS 108, except where the cab of a vehicle is not more than 42 inches wide at the front roof line a single identification lamp shall be deemed to comply with the requirements for front identification lamps.

(c) Specialized lamps. Specialized combination lamps designed to be mounted with the base at angles other than 0, 45, or 90 degrees from the longitudinal axis of the vehicle shall be installed in accordance with the manufacturer's instructions.

(2) Cornering lamps. Cornering lamps shall be mounted on the front of the vehicle near the side or the side near the front and not lower than 12 inches nor higher than 30 inches.

(3) Deceleration lamps. Deceleration lamps shall be mounted on the rear of the vehicle on or adjacent to the centerline of the vehicle at a height not lower than 20 inches and not higher than 72 inches.

(4) Fog lamps. A fog lamp is a lighting device mounted to provide illumination forward of the vehicle under conditions of rain, snow, dust, or fog. Fog lamps shall be mounted at a height of not less than 12 inches nor more than 30 inches, and so that the inner edge of the lens retaining ring is no closer than 4 inches to the optical center of the front turn signal lamp. The fog lamp(s) may be used ~~((at the driver's discretion))~~ only with ~~((either))~~ the low ~~((or high))~~ beam headlamps. Fog lamps shall not be used alone in lieu of headlamps.

(5) Headlamps. Headlamps shall be mounted as specified in FMVSS 108 and as follows:

(a) Spacing. Headlamp units installed after November 15, 1975, shall not be closer to the centerline of the vehicle than 12 inches measured from the center of the lens, except on motorcycles and motorized bicycles, and shall be spaced as far apart as practicable. In cases of customized headlamp installation, headlamps shall not be mounted closer together than at the time of original manufacture of the vehicle body.

(b) Height. Headlamps shall be mounted at a height of not less than 24 inches nor more than 54 inches.

(c) Covers. No grille, plastic or glass covers, or any other obstruction which distorts the color or the distribution of light or substantially decreases its intensity shall be in front of the headlamp lens, except for headlamp concealment devices meeting the requirements of FMVSS 112.

(6) Auxiliary passing lamps. A passing lamp is an auxiliary low beam lamp meeting the photometric requirements of SAE Standard J582a. Passing lamps shall be mounted not lower than 24 inches nor higher than 42 inches, and so the inner edge of the lens retaining ring is no closer than 4 inches to the optical center of the front turn signal lamp. The lamp may be used at the driver's discretion with either low or high beam headlamps. Passing lamps shall not be used alone in lieu of headlamps.

(7) Auxiliary driving lamps. A driving lamp is a lighting device mounted to provide illumination forward of the vehicle to supplement the upper beam of a standard headlamp system. Driving lamps shall be mounted on the front not lower than 16 inches nor higher than 42 inches. Driving lamps shall be wired so that the taillights are lighted whenever the driving lamps are lighted. If driving lamps are not wired to operate only with headlamp high beams, then a separate switch and indicator lamp shall be provided to operate the driving lamps. Driving lamps shall not be used alone in lieu of headlamps.

(8) Side turn signal lamps. Side turn signal lamps shall be mounted on the side not lower than 20 inches nor higher than 72 inches. The lamps shall flash with the front and rear turn signal lamps on their respective sides of the vehicle. On vehicles equipped with sequential turn signal lamps, the side turn signal lamps shall flash with the front turn signal lamps. If the side turn signal lamps flash when the hazard warning switch is actuated, all such lamps shall flash with the rear turn signal lamps.

(9) Supplemental signal lamps. Supplemental stop or turn signal lamps shall be single-faced, shall be actuated in the same manner and at the same time as the required stoplamps or turn signal lamps, and shall not be used in lieu of such lamps. Supplemental turn signal lamps and supplemental combination stop-and-turn signal lamps shall be mounted in pairs facing the rear with one lamp near each side of the vehicle, at the same height and equally spaced from the vehicle centerline. Supplemental stoplamps shall be mounted in pairs as specified above or with not more than two lamps on or adjacent to the centerline of the vehicle. Supplemental stop or turn signal lamps shall be mounted not lower than 35 inches nor higher than 55 inches. Standard stop or turn signal lamps not combined with tail lamps or reflex reflectors may be used respectively as supplemental lamps in which case they shall be mounted at any height not lower than 15 inches nor higher than 72 inches.

(10) Turn signal lamps. Turn signal lamps shall be mounted and operated as follows:

(a) Motor vehicles. Turn signal systems on motor vehicles shall consist of at least two single-faced or double-faced turn signal lamps on or near the front and at least two single-faced turn signal lamps on the rear. Double-faced turn lamps shall be mounted ahead of the center of the steering wheel or the center of the outside rearview mirror,

whichever is rearmost. A truck-tractor or a truck chassis without body or load may be equipped with one double-faced turn signal lamp on each side in lieu of the four separate lamps otherwise required on a motor vehicle. Front and rear turn signal lamps on motorcycles shall be at least 9 inches apart, except that front turn signals on motorcycles manufactured after January 1, 1973, shall be at least 16 inches apart. Turn signal lamps on other vehicles shall be spaced as far apart as practical. The optical center of the front turn signal lamp shall be at least 4 inches from the inside diameter of the retaining ring of the lower beam headlamp unit, fog lamp unit, or passing lamp unit. Original equipment turn signals that emit two and one-half times the minimum candela requirements may be closer.

(b) Towed vehicles. The rearmost vehicle in a combination of vehicles shall be equipped with at least two single-faced turn signal lamps on the rear. The signal system on a combination of vehicles towed by a motor vehicle equipped with double-faced front turn signal lamps may be connected so only the double-faced turn signal lamps on the towing vehicle and the signal lamps on the rear of the rearmost vehicle are operative.

(c) Operation. Turn signal lamps visible to approaching or following drivers shall flash in unison, except that a turn signal consisting of two or more units mounted horizontally may flash in sequence from inboard to outboard. The lamps may be either extinguished simultaneously or lighted simultaneously. Turn signal lamps shall flash at a rate of 60 to 120 flashes per minute.

(11) Warning lamps. Required front warning lamps other than school bus warning lamps shall be mounted so the entire projected area of the lens is visible from all eye heights of drivers of other vehicles at angles within 45 degrees left to 45 degrees right of the front of the vehicle. If the light within these required angles is blocked by the vehicle or any substantial object on it, an additional warning lamp shall be displayed within the obstructed angle. Warning lamps may be mounted at any height.

**WSR 97-09-071**  
**PROPOSED RULES**  
**UNIVERSITY OF WASHINGTON**

[Filed April 22, 1997, 10:35 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-05-049.

**Title of Rule:** Chapter 478-116 WAC, Parking and traffic regulations of the University of Washington.

**Purpose:** Rules governing vehicle parking and traffic at the University of Washington.

**Other Identifying Information:** In addition to the proposed changes noted herein, chapter 478-116 WAC is renamed "Parking and traffic rules of the University of Washington."

**Statutory Authority for Adoption:** RCW 28B.10.560 and 28B.20.130.

**Statute Being Implemented:** RCW 28B.10.560 and 28B.20.130.

**Summary:** Parking and traffic rules of the University of Washington—New chapter name.

**Part I Preamble, General Information and Definitions—**  
New part name; WAC 478-116-010, amended, housekeeping changes; WAC 478-116-020, amended, several changes; WAC 478-116-030, amended, several changes, reduced by two subsections; WAC 478-116-040, no change; WAC 478-116-044, new section, formerly WAC 478-116-095, several changes; WAC 478-116-046, new section, formerly subsection (2) of WAC 478-116-110, several changes; WAC 478-116-050, repealed; WAC 478-116-051, new section, formerly WAC 478-116-055 and subsection (1) of WAC 478-116-070, several changes, expanded by eight subsections; WAC 478-116-055, repealed, revised material became WAC 478-116-051; WAC 478-116-060, repealed, revised material moved to WAC 478-116-201, 478-116-111, 478-116-227, and 478-116-167; WAC 478-116-061, new section, formerly WAC 478-116-180, housekeeping change; WAC 478-116-070, repealed, revised material became part of subsection (12) of WAC 478-116-051 and 478-116-221; WAC 478-116-071, new section, formerly WAC 478-116-610, several changes, reduced by one subsection; WAC 478-116-080, repealed, revised material became WAC 478-116-630; WAC 478-116-088, repealed, revised material became WAC 478-116-665; WAC 478-116-090, repealed; and WAC 478-116-095, repealed, revised material became WAC 478-116-605.

**Part II Parking Services—**New part name; WAC 478-116-100, repealed, revised material became WAC 478-116-611; WAC 478-116-101, new section, formerly WAC 478-116-220, several changes, expanded into five subsections; WAC 478-116-110, repealed, revised material became WAC 478-116-251 and 478-116-615; WAC 478-116-111, new section, formerly subsection (3) of WAC 478-116-060, several changes; WAC 478-116-114, new section, formerly WAC 478-116-280, several changes; WAC 478-116-116, new section, formerly WAC 478-116-290, several changes; WAC 478-116-120, repealed; WAC 478-116-121, new section, formerly WAC 478-116-240, several changes, reduced by two subsections; WAC 478-116-125, new section, formerly WAC 478-116-250, several changes, reduced by two subsections; WAC 478-116-130, repealed, revised material became WAC 478-116-261, 478-116-253, 478-116-255, and 478-116-257; WAC 478-116-131, new section, formerly WAC 478-116-260, completely revised, expanded by two subsections; WAC 478-116-140, repealed, revised material became WAC 478-116-271; WAC 478-116-141, new section, formerly WAC 478-116-310, housekeeping changes; WAC 478-116-145, new section, formerly WAC 478-116-270, several changes, reduced by one subsection; WAC 478-116-147, new section, formerly subsection (1) of WAC 478-116-360, several changes; WAC 478-116-151, new section, formerly WAC 478-116-160, several changes; WAC 478-116-160, repealed, revised material became WAC 478-116-151; WAC 478-116-161, new section, formerly WAC 478-116-380, several changes; WAC 478-116-163, new section, formerly WAC 478-116-390, housekeeping change; WAC 478-116-165, new section, formerly WAC 478-116-300, several changes; WAC 478-116-167, new section, formerly subsection (5) of WAC 478-116-060, expanded; WAC 478-116-170, repealed, revised material became WAC 478-116-620; WAC 478-116-171, new section, formerly WAC 478-116-330, several changes; WAC 478-116-180, repealed, revised material became WAC 478-116-061; WAC 478-116-181, new section, formerly WAC

478-116-400, several changes; WAC 478-116-184, new section, formerly WAC 478-116-370, several changes, reduced by five subsections; WAC 478-116-186, new section, addition to former subsection (2) of WAC 478-116-360; WAC 478-116-190, repealed, material became WAC 478-116-245; and WAC 478-116-191, new section, formerly WAC 478-116-570, several changes.

Part III Parking Violations—New part name; WAC 478-116-200, repealed, material became WAC 478-116-281 and 478-116-285; WAC 478-116-201, new section, formerly subsections (1) and (2) of WAC 478-116-060, several changes; WAC 478-116-210, repealed; WAC 478-116-211, new section, formerly WAC 478-116-350, several changes, expanded into three subsections; WAC 478-116-220, repealed, revised material became WAC 478-116-101; WAC 478-116-221, new section, formerly subsections (2) and (3) of WAC 478-116-070, several changes; WAC 478-116-223, new section, formerly WAC 478-116-340, several changes; WAC 478-116-225, new section, addition to former WAC 478-116-345; WAC 478-116-227, new section, formerly subsection (4) of WAC 478-116-060, several changes; WAC 478-116-230, repealed; WAC 478-116-231, new section; WAC 478-116-240, repealed, revised material became WAC 478-116-121; WAC 478-116-241, new section, formerly WAC 478-116-355, no changes; WAC 478-116-245, new section, formerly WAC 478-116-190, no changes; WAC 478-116-250, repealed, revised material became WAC 478-116-125; WAC 478-116-251, new section, formerly subsection (1) of WAC 478-116-110, several changes, expanded into two subsections; WAC 478-116-253, new section, formerly subsection (2) of WAC 478-116-130, several changes; WAC 478-116-255, new section, addition to former subsection (2) of WAC 478-116-130; WAC 478-116-260, repealed, revised material became WAC 478-116-131; WAC 478-116-261, new section, formerly subsection (1) of WAC 478-116-130, several changes; WAC 478-116-270, repealed, revised material became WAC 478-116-270 [478-116-145]; WAC 478-116-271, new section, formerly WAC 478-116-140, several changes; WAC 478-116-280, repealed, revised material became WAC 478-116-114; WAC 478-116-281, new section, formerly WAC 478-116-200, no changes; WAC 478-116-290, repealed, revised material became WAC 478-116-116; and WAC 478-116-291, new section, formerly WAC 478-116-580, several changes.

Part IV Motor Vehicle Citation Issuance—New part name; WAC 478-116-300, repealed, revised material became WAC 478-116-165; WAC 478-116-301, new section, formerly WAC 478-116-440, several changes, expanded into two subsections; WAC 478-116-310, repealed, revised material became WAC 478-116-141; WAC 478-116-311, new section, formerly WAC 478-116-601, several changes; WAC 478-116-320, repealed; WAC 478-116-330, repealed, revised material became WAC 478-116-171; WAC 478-116-340, repealed, revised material became WAC 478-116-223; WAC 478-116-345, repealed, revised material became WAC 478-116-225; WAC 478-116-350, repealed, revised material became WAC 478-116-211; WAC 478-116-355, repealed, material became WAC 478-116-241; WAC 478-116-360, repealed, revised material became WAC 478-116-147 and 478-116-186; WAC 478-116-370, repealed, revised material became WAC 478-116-184; WAC 478-116-380, repealed, revised material became WAC 478-116-161; and WAC 478-

116-390, repealed, revised material became WAC 478-116-163.

Part V Impounded Motor Vehicles—New part name; WAC 478-116-400, repealed, revised material became WAC 478-116-181; WAC 478-116-401, new section, formerly WAC 478-116-582, housekeeping change; WAC 478-116-411, new section, formerly WAC 478-116-584, several changes, reduced by one subsection; WAC 478-116-421, new section, formerly WAC 478-116-586, housekeeping changes; WAC 478-116-431, new section, formerly WAC 478-116-588, housekeeping changes; WAC 478-116-440, repealed, revised material became WAC 478-116-301; WAC 478-116-450, repealed, revised material became WAC 478-116-531; and WAC 478-116-460, repealed, revised material became WAC 478-116-551.

Part VI Appeals and Payment of Motor Vehicle Fines—New part name; WAC 478-116-501, new section, formerly WAC 478-116-550, expanded; WAC 478-116-520, amended, several changes, reduced by 1 subsection; WAC 478-116-531, new section, formerly WAC 478-116-450, housekeeping changes; WAC 478-116-540, repealed, revised material became WAC 478-116-561; WAC 478-116-541, new section, formerly WAC 478-116-589, housekeeping changes; WAC 478-116-550, repealed, revised material became WAC 478-116-501; WAC 478-116-551, new section, formerly WAC 478-116-460, housekeeping change; WAC 478-116-561, new section, formerly WAC 478-116-540, housekeeping changes; WAC 478-116-570, repealed, revised material became WAC 478-116-191; WAC 478-116-580, repealed, revised material became WAC 478-116-291; WAC 478-116-582, repealed, revised material became WAC 478-116-401; WAC 478-116-584, repealed, material became WAC 478-116-411; WAC 478-116-586, repealed, revised material became WAC 478-116-421; WAC 478-116-588, repealed, revised material became WAC 478-116-431; WAC 478-116-589, repealed, revised material became WAC 478-116-541; and WAC 478-116-590, repealed.

Part VII Bicycles and Nonmotorized Vehicles—New part name; WAC 478-116-601, repealed, revised material became WAC 478-116-311; WAC 478-116-605, new section, formerly WAC 478-116-080, several changes, expanded by three subsections; WAC 478-116-610, repealed, revised material became WAC 478-116-071; WAC 478-116-611, new section; WAC 478-116-620, new section; WAC 478-116-630, new section; WAC 478-116-640, new section; WAC 478-116-650, new section; WAC 478-116-660, new section; and WAC 478-116-670, new section, formerly WAC 478-116-088, several changes.

Reasons Supporting Proposal: Chapter 478-116 WAC has not been revised for several years and many changes and additions need to be made.

Name of Agency Personnel Responsible for Drafting: Peter Dewey, Manager, Parking Services, 3901 University Way N.E., University of Washington, (206) 685-1543 and Randy Stegmeier, Assistant Chief, University Police, 1117 N.E. Boat Street, University of Washington, (206) 543-9331; Implementation: Weldon E. Ihrig, Executive Vice-President, 306 Gerberding Hall, University of Washington, (206) 543-6410; and Enforcement: Roger Serra, Chief, University Police, 1117 N.E. Boat Street, University of Washington, (206) 543-9331 and Peter Dewey, Manager, Parking Services,

es, 3901 University Way N.E., University of Washington, (206) 685-1543.

Name of Proponent: University of Washington, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 478-116 WAC supports the University of Washington's parking and traffic enforcement organizations, and has been reorganized into various parts to be better understood by those who operate and park vehicles upon land and facilities governed by the University of Washington. The reorganization and revision of this chapter should benefit those required to comply, as mandated by RCW 34.05.220(5).

Proposal Changes the Following Existing Rules: The following rules are amended: WAC 478-116-010, 478-116-020, 478-116-030, and 478-116-520. The following rules are repealed: WAC 478-116-050, 478-116-055, 478-116-060, 478-116-070, 478-116-080, 478-116-088, 478-116-090, 478-116-095, 478-116-100, 478-116-110, 478-116-120, 478-116-130, 478-116-140, 478-116-160, 478-116-170, 478-116-180, 478-116-190, 478-116-200, 478-116-210, 478-116-220, 478-116-230, 478-116-240, 478-116-250, 478-116-260, 478-116-270, 478-116-280, 478-116-290, 478-116-300, 478-116-310, 478-116-320, 478-116-330, 478-116-340, 478-116-345, 478-116-350, 478-116-355, 478-116-360, 478-116-370, 478-116-380, 478-116-390, 478-116-400, 478-116-440, 478-116-450, 478-116-460, 478-116-540, 478-116-550, 478-116-570, 478-116-580, 478-116-582, 478-116-584, 478-116-586, 478-116-588, 478-116-589, 478-116-590, 478-116-601, and 478-116-610.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The University of Washington has determined that chapter 478-116 WAC is not subject to the Regulatory Fairness Act, chapter 19.85 RCW.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. RCW 34.05.328 is not invoked by the University of Washington for chapter 478-116 WAC.

Hearing Location: Room 106B, Husky Union Building (HUB), University of Washington, Seattle, Washington, on May 28, 1997, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact UW Disability Services Office by May 14, 1997, TDD (206) 543-6452, or (206) 543-6450.

Submit Written Comments to: Rebecca Goodwin Deardorff, Administrative Procedures Officer, Administrative Procedures Office via one of the following: Campus mail: Box 355509; United States mail: University of Washington, 4014 University Way N.E., Seattle, WA 98105-6203; e-mail adminpro@u.washington.edu; or FAX (206) 543-0786, by May 28, 1997.

Date of Intended Adoption: June 13, 1997.

April 22, 1997

Rebecca Goodwin Deardorff  
Administrative Procedures Officer

## PART I PREAMBLE, GENERAL INFORMATION AND DEFINITIONS

AMENDATORY SECTION (Amending Order 84-3, filed 4/30/84)

**WAC 478-116-010 Preamble.** Pursuant to the authority granted by RCW 28B.10.560 and 28B.20.130, the board of regents of the University of Washington establishes the following ~~((regulations))~~ rules to govern ~~((pedestrian traffic and vehicular))~~ vehicle traffic and parking upon public lands and facilities of the University of Washington.

AMENDATORY SECTION (Amending WSR 91-11-029 and 91-12-047, filed 5/8/91 and 6/5/91, effective 6/8/91 and 10/1/91)

**WAC 478-116-020 Objectives of parking and traffic ~~((regulations))~~ rules.** (1) The objectives of these ~~((regulations))~~ rules are:

(a) To protect and control traffic and parking on campus.

(b) To assure access at all times for emergency vehicles and equipment.

(c) To minimize traffic disturbance during class hours.

(d) To facilitate the work of the university by assuring access to its vehicles and by assigning the limited parking space and hours of operation for the most efficient use.

(e) To encourage travel to the university by means other than single occupancy vehicle (SOV).

(2) Permission to park or operate a vehicle ~~((or bicycle upon state lands governed by these regulations))~~ at the University of Washington is a privilege granted by the board of regents of the University of Washington ~~((, and does not ensure regular availability of a parking space under the conditions stated in WAC 478-116-020 and 478-116-180 and elsewhere in these regulations)).~~

AMENDATORY SECTION (Amending Order 89-1, filed 7/13/89, effective 8/13/89)

**WAC 478-116-030 Applicable parking and traffic ~~((regulations—Areas affected))~~ rules.** The following ~~((regulations))~~ rules apply upon state lands devoted mainly to the ~~((educational or research))~~ activities of the University of Washington ~~((, hereinafter called "campus")):~~

(1) ~~((The motor))~~ Vehicle and other traffic laws of the state of Washington ~~((shall be applicable upon all lands located within the state of Washington)).~~

(2) ~~((The traffic code of the city of Seattle applies upon all lands located within the city of Seattle.~~

~~((3) The))~~ University of Washington parking and traffic ~~((regulations shall be applicable to all state lands which are or may hereafter be devoted mainly to educational, research, housing, recreational, or parking activities of the University of Washington))~~ rules.

~~((4) In case of conflict among the provisions of the motor vehicle and other traffic laws of the state of Washington or the traffic code of the city of Seattle and these regulations, the provisions of these regulations shall govern.))~~

PROPOSED

NEW SECTION

**WAC 478-116-044 Authorized use of streets and parking facilities.** Except with the express permission of the university police department, only motor vehicles and vehicles, such as bicycles and other modes of transportation, as defined herein, may be operated on campus streets. Only bicycles and motor vehicles may be operated within designated parking lots or structures.

NEW SECTION

**WAC 478-116-046 Directions issued by university police officers.** Operators of vehicles shall comply with directions issued by university police officers in the enforcement of these rules and in the general control and regulation of traffic.

NEW SECTION

**WAC 478-116-051 Definitions.** (1) Allowed meter time. The maximum time allowed on a pay meter at any one time.

(2) Assign/assignment. Areas designated for a person to park.

(3) Bicycle. Any device defined as a bicycle in chapter 46.04 RCW.

(4) Campus. The state lands located in Seattle, Washington devoted mainly to the activities of the University of Washington.

(5) Designate/designated. Parking area assignment for person to park per WAC 478-116-261.

(6) Fee. A charge for the use of the permit issued.

(7) Hours of operation. The hours of operation assigned to a particular parking area, parking lot, or parking space by parking services.

(8) Impoundment. The removal of the vehicle to a storage facility either by an officer or authorized agent of the University of Washington police department.

(9) Key card. A plastic card which actuates the automatic gate arms controlling certain parking areas, and is issued by parking services.

(10) Legal owner. Person(s) having a security interest in a vehicle perfected in accordance with chapter 46.12 RCW or the registered owner of a vehicle unencumbered by a security interest.

(11) Motorcycles and scooters. A motor vehicle designed to travel on not more than three wheels in contact with the ground, on which the driver rides astride the motor unit or power train and is designed to be steered with a handle bar. For the purposes of these rules, motorcycles, motorized bicycles, and scooters are considered to be motor vehicles and are subject to all traffic and parking rules controlling other motor vehicles.

(12) Motorhome. A motor vehicle or portable vehicle with facilities for human habitation which include lodging and cooking and garbage disposal.

(13) Nonmotor/nonmotorized vehicle. A device other than a motor vehicle used to transport persons. Nonmotor vehicles include, but are not limited to, bicycles, skateboards, and roller-skates.

(14) Operator or driver. Every person who drives or is in actual physical control of a motor vehicle or nonmotor vehicle.

(15) Parking space. A space designated for parking one motor vehicle by lines painted on either side of the space, at the rear of the space, a concrete block positioned in the front of the space, a sign or signs, or other markings.

(16) Pedestrian. Any person afoot, as defined in chapter 46.04 RCW.

(17) Permit. A document issued by parking services that authorizes a person to park.

(18) Register/registration. The listing of any motor vehicle with parking services, for the purposes of obtaining a parking permit for the university.

(19) Registered owner. The person whose lawful right of possession of a vehicle has most recently been recorded with the department of licensing.

(20) Reissue. The replacement of a permit when the original has been stolen, lost, or following a change of parking lot designation, or vehicle(s).

(21) Renewal/renew. The replacement of an expired parking permit at the end of the permit's effective period.

(22) Reserved. Area for individuals who have been assigned a "reserved" designator.

(23) Roller-skate. A device used to attach a wheel or wheels to the foot or feet of a person.

(24) Skateboard. Any oblong board of whatever composition, with a pair of small wheels at each end, which device may be ridden by a person.

(25) Traffic. Vehicular and nonvehicular modes of transportation defined in chapter 46.04 RCW.

(26) University. The University of Washington.

(27) University vehicle. A state of Washington-owned, University-operated motor vehicle.

(28) Vehicle. Any motor vehicle or nonmotor vehicle.

NEW SECTION

**WAC 478-116-061 Liability of university.** The university assumes no liability for vehicles parked on university properties. No bailment but only a license is created by the purchase and/or issuance of a permit.

NEW SECTION

**WAC 478-116-071 Severability, savings clause.** If any provision of this chapter 478-116 WAC, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected.

## PART II PARKING SERVICES

NEW SECTION

**WAC 478-116-101 Numbering of parking areas, parking allocation and issuance of permits.** (1) Parking services shall designate and mark the various parking areas on the campus with numbers and/or letters and their hours of operation by the posting of signs in those areas.

(2) Parking services shall allocate parking spaces and hours of operation on campus in a manner that will best satisfy the objectives of these rules.

(3) Parking services is authorized to issue permits to park upon campus.

(4) Permits issued by parking services shall be accompanied by small area designators specifying the area or areas of parking for which the permit is valid. Parking services may change area assignments in a manner which will promote the objectives of these rules.

(5) All outstanding campus parking violation penalties associated with the permit or motor vehicle registered (or to be registered) under the permit must be satisfactorily settled before a parking permit may be issued, reissued, or renewed.

#### NEW SECTION

**WAC 478-116-111 Valid permit.** A valid permit is one of the following:

(1) An unexpired and unrecalled vehicle permit and area designator properly registered and displayed on a vehicle in accordance with WAC 478-116-223.

(2) A temporary permit authorized by parking services and displayed in accordance with instructions on the permit.

(3) A parking permit issued by a gate attendant, which shall be displayed on the vehicle in accordance with instructions on the permit.

#### NEW SECTION

**WAC 478-116-114 Transferable permits.** (1) Permit holders may transfer one permit between motor vehicles when used by the permit holder. Improper transfer of a permit shall include, but not be limited by, the wrongful sale, lending, or bad faith transfer of a parking permit.

(2) Permits displaying license plate numbers shall only be used in the vehicles whose license number is written on the permit. Only one vehicle may display and use the permit at any time while parked on campus.

#### NEW SECTION

**WAC 478-116-116 Temporary and replacement permits.** (1) Any permit holder may obtain without charge a temporary permit from parking services when necessary due to nonavailability of his or her permit. The temporary permit shall not be used concurrently with the regular permit.

(2) Any permit holder may obtain a replacement permit upon completion of a signed certificate as provided in the fee schedule when his or her assigned permit has been lost, stolen or destroyed.

#### NEW SECTION

**WAC 478-116-121 Visitor parking.** (1) No permit shall be required for the following motor vehicles:

(a) Public safety and emergency vehicles while performing services on campus;

(b) Marked taxis, tow trucks, commercial delivery and media vehicles which have agreed to comply with university guidelines and received prior written approval of parking services; and

(c) School buses and tour buses parking in designated locations.

(2) Permits shall be provided during parking service's hours of operation at no cost to the driver for the following:

(a) Commercial delivery motor vehicles under contract to the university, for limited time periods;

(b) Vehicles operated by members of the nonuniversity press presenting recognized credentials, while pursuing a story;

(c) Properly identified persons retired from the university but not reemployed by the university shall be provided complementary parking. Their parking fee shall be recharged to the appropriate university department;

(d) Persons who drop off and pick up children enrolled in established university programs for limited time periods;

(e) Utility meter readers and other city, county or state agencies making inspections; and

(f) Contractors hired for a particular job parked inside approved fenced construction sites or peripheral contractor parking areas approved in advance by parking services.

(3) University departments may pay parking services directly for the parking fees of their guests. The rate charged will be that of the "departmental commuter ticket." Parking services may establish mechanisms to allow departments to pay for all or part of the parking fee of sponsor department's guests based on the established fee schedule.

(4) University departments may pay parking services directly for the parking fees of their department's employees not stationed on campus who are required to occasionally come to campus. The rate charged will be that of the "departmental commuter ticket."

#### NEW SECTION

**WAC 478-116-125 Other types of permits.** (1) Temporary employees, maintenance or service personnel, contractors, persons serving the university without pay, and other visitors who must frequently visit the campus on official business, may be issued parking permits at the established rate.

(2) Parking designators, such as "reserve," "U," "US," and "SS" may be issued by parking services upon payment of the prescribed fee.

(3) Motorhomes used by patients and their visitors shall be permitted in designated areas for not more than fifteen consecutive days, upon approval of parking services and payment of the established fee.

(4) Persons retired from the university who are reemployed may purchase individual commuter tickets at the established rate or annual permits at forty percent of the annual permit cost.

#### NEW SECTION

**WAC 478-116-131 Parking for events and other university functions.** (1) Parking for attendees to events that may displace regular parking customers or that may require added parking services staffing shall be accommodated only if parking services can find suitable alternatives for regular parking customers. Parking fees will be charged as follows:

(a) Freshman convocation and university commencement and related graduation functions. Parking for attendees will

be complimentary. Parking services will charge the cost of staff and services used expressly for the event to the sponsoring department;

(b) An event rate will be charged to attendees of events that require staffing to collect fees; and

(c) Parking services shall negotiate the cost of prepurchased parking and alternative transportation for Husky football with the department of intercollegiate athletics.

(2) Parking services may lease available parking facilities to sponsors of events, who shall pay in advance and be charged at a per stall fee for the particular leased facility.

(3) Parking services may extend its hours of operations to encompass the hours of an event. The following conditions shall trigger charging for events scheduled outside the normal hours of operation:

(a) Any activity which in the judgment of parking services is expected to attract over five hundred vehicles to campus; or

(b) Any event requiring a city of Seattle special event permit.

(4) University departments which sponsor functions such as athletic events, conferences, seminars and dinners may arrange for parking of their guests and this parking will be provided on a space available basis. Departments have the option of paying for guests' parking. Otherwise, their guests will be responsible for the parking fee. To facilitate prepaid parking and with parking services' prior approval, departments may act as its agent in the collection of parking fees.

(5) Parking services may displace permit holders from their regularly assigned areas during special events. Permit holders shall be provided an alternate area assignment during special events at no extra charge.

#### NEW SECTION

**WAC 478-116-141 Annual and quarterly permit periods.** The annual permit period begins July 1 of each year. Quarterly permit periods for staff and faculty parking begin July 1, October 1, January 1 and April 1 of each year. Quarterly permit periods for student parking begin each quarter at a date which predates the beginning of school, and is determined by parking services. Student quarterly permits are valid for ninety days.

#### NEW SECTION

**WAC 478-116-145 Evening permits.** (1) Evening, annual, or quarterly permits will allow parking during the period of time printed on the permit, as well as on Saturday mornings in assigned areas.

(2) Gate-issued or machine-issued evening permits are valid only until 7:30 a.m. of the following day.

#### NEW SECTION

**WAC 478-116-147 Carpool permits.** Parking services shall set aside carpool spaces in designated parking areas, establish guidelines for permit issuance, and develop appropriate procedures to encourage carpooling, and to insure against abuse of carpool privileges.

#### NEW SECTION

**WAC 478-116-151 Parking of state of Washington-owned university-operated motor vehicles.** (1) Parking services may exempt university vehicles from the permit requirement set forth in WAC 478-116-201 and the requirement that motor vehicles must be parked in designated parking areas as set forth in WAC 478-116-261.

(2) Unless express permission is given by parking services, university vehicles shall abide by the rules set forth in WAC 478-116-253 and 478-116-255.

(3) The operator of a university vehicle is personally liable for any citation issued to the motor vehicle under these rules.

#### NEW SECTION

**WAC 478-116-161 Annual parking fee payment.** Regardless of payment method used, payment for an annual parking permit is the sole responsibility of the permit holder and failure to pay the parking permit fee is grounds for recall under WAC 478-116-184 (1)(d). The permit holder remains responsible for payment of parking fees until the permit is returned or expires. Payment for an annual parking permit may only be made in one of the following ways:

(1) By cash, by check or money order payable to the "University of Washington" directly to parking services. Cash should not be sent by mail.

(2) Faculty and staff members on the regular monthly payroll may select the payroll deduction plan for payment of the annual permit only.

(a) Deductions will be made from each bimonthly paycheck for that month's parking installment period. Persons selecting this plan must complete a payroll deduction authorization form in addition to the appropriate parking permit application.

(b) Deductions will be terminated by completing a payroll termination form and returning any unexpired permit.

#### NEW SECTION

**WAC 478-116-163 Fee schedule.** Fees for parking and the effective date thereof shall be submitted to the board of regents for approval by motion. Prior to approval by the board of regents, the university shall, after notice, hold a hearing on the proposed schedule. The hearing shall be open to the public, and shall be presided over by a presiding officer who shall prepare a memorandum for consideration by the university, summarizing the contents of the presentations made at the hearing. Approved fee schedules shall be available in the public area of the parking services office and in the University of Washington *Operations Manual*, D 53.4, Attachment B.

#### NEW SECTION

**WAC 478-116-165 Vehicle and driver's licenses required.** Any applicant for a permit must possess a driver's license recognized as valid by the state of Washington and the vehicle for which the applicant seeks a permit must also be licensed and registered in a way recognized as valid by the state of Washington.

NEW SECTION**WAC 478-116-167 Right to refuse to issue a permit.**

The university reserves the right to refuse the issuance of a parking permit. The basis for refusing to issue a parking permit includes, but is not limited to, the following circumstances:

- (1) When the issuance would compromise or conflict with the mission of the university;
- (2) When the applicant has falsified a parking permit application or failed to pay parking fees and fines; or
- (3) When the applicant has counterfeited or altered a permit, area designator, or key card.

NEW SECTION

**WAC 478-116-171 Responsibility of person to whom permit is issued.** The person to whom a permit is issued pursuant to these rules shall be responsible for all violations of these rules involving that permit. Such responsibility does not afford a defense to another person who jointly violates these rules.

NEW SECTION

**WAC 478-116-181 Refund conditions for parking permits.** (1) Refunds will be made for unused portions of permits which were paid for in full at the time of acquisition following the return of the permit to parking services. The refund schedule will be established by parking services.

- (2) If the permit is being paid by the payroll deduction plan, then a payroll deduction termination form must be completed.
- (3) Any unpaid fine for a violation of these rules will be deducted from any refund due, including refunds due to revocation of parking privileges.

NEW SECTION

**WAC 478-116-184 Recall of permits.** (1) Permits are the property of the university, and may be recalled by parking services for any of the following reasons:

- (a) When the purpose for which the permit was issued changes or no longer exists;
- (b) When a permit, area designator or gate key card is used by an unauthorized person;
- (c) Falsification on a parking permit application;
- (d) Nonpayment of parking fees;
- (e) Counterfeiting or altering of permits, area designators or gate key cards;
- (f) Failure to comply with a final decision of the citation hearing office; or
- (g) When the person to whom the permit is issued receives in excess of twelve citations under these rules within any twelve-consecutive month time period.

(2) Vehicles displaying recalled permits will be subject to impoundment on sight and confiscation of the permit for return to parking services.

NEW SECTION

**WAC 478-116-186 Recall of carpool permits.** Abuse of carpool privileges, such as but not limited to carpools formed within one-half mile of campus, and/or falsified application information may constitute grounds for the university to suspend or revoke parking privileges from the offender(s).

NEW SECTION

**WAC 478-116-191 Regulatory signs, barricades, and markings.** (1) Signs, barricades, markings and directions shall be so made and placed as will best meet the objectives stated in WAC 478-116-020 of these rules.

(2) No unauthorized person shall remove, move, deface, or in any way change a sign, barricade, marking, or direction so placed, or previously placed, for the purpose of regulating traffic or parking. Authority to make temporary changes of this nature with respect to streets or roadways must be obtained from the university police department.

### PART III PARKING VIOLATIONS

NEW SECTION

**WAC 478-116-201 Permits required for motor vehicles parked on campus during hours of operation—Assigned parking areas.** (1) Except as provided in WAC 478-116-121 and 478-116-151, no person shall park or leave any motor vehicle unattended by a licensed driver upon the campus during the hours of operation without a valid permit issued by parking services.

(2) Permission to park on campus shall be shown by display of a valid permit. Possession of a gate key card does not, in itself, constitute permission to park in a designated parking area.

NEW SECTION

**WAC 478-116-211 Metered parking.** (1) Except as provided in subsection (2) of this section, any vehicle, other than a university vehicle, which occupies a metered space is subject to payment of the meter fee in accordance with the hours posted, even though the vehicle may display a valid permit.

(2) Vehicles displaying a disability permit or disability license issued by a state department of licensing shall not be subject to payment of the meter fee during the allowed meter time limit.

(3) Motor vehicles parked after the maximum time shall be subject to citation for parking over the posted time limit.

NEW SECTION

**WAC 478-116-221 Parking of motorcycles and scooters.** Motorcycles, motorized bicycles, and scooters must only be parked in designated cycle areas. Motorcycles, motorized bicycles, and scooters are not permitted to drive or park on paths, on sidewalks, on planted areas, in buildings, or in pedestrian areas.

NEW SECTION

**WAC 478-116-223 Display of permits.** (1) Quarterly, annual, and short-term permits issued by parking services shall be displayed by hanging from the rear view mirror or affixed to the driver's side bottom of the windshield of the motor vehicle and shall be fully visible from the exterior of the motor vehicle.

(2) All other permits shall be displayed face up on the dashboard of the motor vehicle and shall be fully visible from the exterior of the motor vehicle.

(3) The area designator (numeral, letter or combination) shall be affixed to the vehicle permit and shall be fully visible from the exterior of the motor vehicle.

(4) Motorcycle and scooter permits shall be prominently displayed on the front or left side of the vehicle.

(5) Permits not fully visible from the exterior of a motor vehicle are not valid and are subject to citation for no valid permit displayed.

(6) Expired permits must be removed from exterior view before displaying a current permit. A motor vehicle displaying an expired permit along with a valid permit is subject to citation for improper display of a permit.

NEW SECTION

**WAC 478-116-225 Permits and vehicle license plates.** Permit holders shall provide parking services with the license number of any vehicle they regularly use.

NEW SECTION

**WAC 478-116-227 Permit transfer.** Parking permits, parking credit cards, and key cards are not transferable between individuals, but can be transferred between cars operated by a permit holder.

NEW SECTION

**WAC 478-116-231 Use of revoked permits prohibited.** (1) Use of a permit which was revoked or recalled under WAC 478-116-184 or 478-116-186 is prohibited.

(2) Purchase of a permit from someone other than parking services or a lawful designee shall not constitute an excuse or defense to a violation of this section.

NEW SECTION

**WAC 478-116-241 Overtime parking violations—Repeated.** Each subsequent period of time lapsing following affixation to a vehicle of a notice of overtime parking shall constitute a further violation of WAC 478-116-211 and/or 478-116-251.

NEW SECTION

**WAC 478-116-245 Obstructing traffic prohibited.** No person shall stop, stand or park any motor vehicle so as to obstruct traffic along or upon any street or sidewalk.

NEW SECTION

**WAC 478-116-251 Regulatory signs and directions.** (1) Operators of vehicles shall obey regulatory signs which are posted by the university consistent with the parking and traffic rules of the University of Washington.

(2) Drivers of motor vehicles shall also comply with directions issued by members of parking services in the assignment and use of parking space and in the collection of parking fees.

NEW SECTION

**WAC 478-116-253 Prohibited parking area(s).** (1) No motor vehicle shall be parked at any place where official signs prohibit parking such as, but not limited to, "tow," "fire zone," "prohibited," or "no parking."

(2) No motor vehicle shall be parked within fifteen feet of a fire hydrant.

NEW SECTION

**WAC 478-116-255 Prohibited parking—Space designated for a wheelchair.** No motor vehicle shall be parked in a disability, wheelchair, or reserved parking space, area, or lot without an appropriate permit.

NEW SECTION

**WAC 478-116-261 Designated parking areas.** No motor vehicle shall be parked on the campus except in parking areas and parking spaces set aside and designated as such by parking services.

NEW SECTION

**WAC 478-116-271 Parking within designated parking space.** No motor vehicle shall be parked so as to occupy any portion of more than one parking space or stall within a parking area or so as to extend beyond any marked rear stripe. The fact that other motor vehicles may have been so parked as to require the motor vehicle to occupy a portion of more than one parking space or stall shall not constitute an excuse or defense for a violation of this section. This section shall not apply to stack parking for athletic events.

NEW SECTION

**WAC 478-116-281 Parking—Safekeeping of unattended motor vehicles.** No person driving or in charge of a motor vehicle shall permit it to stand unattended without:

(1) Stopping the engine, locking the ignition and removing the key; and

(2) Setting the brake and transmission to prevent movement of the vehicle.

NEW SECTION

**WAC 478-116-291 Impoundment of motor vehicles.** Any motor vehicle parked upon campus may be subject to impoundment for cause as specified under WAC 478-116-401, 478-116-411 and 478-116-421. The university and its officers, employees and agents shall not be liable for loss or damage of any kind resulting from such impoundment.

**PART IV  
MOTOR VEHICLE CITATION ISSUANCE**

**NEW SECTION**

**WAC 478-116-301 Citation for motor vehicle violations.** (1) The university police department may issue a citation for a violation of these rules. The citation shall set forth the date, approximate time, locality, and nature of the violation. The citation shall be served upon the person charged with the violation by delivery, mail, or placement upon the vehicle involved.

(2) The following information shall be printed on the parking citation:

- (a) The fine schedule and instructions for payment;
- (b) Instruction for contesting the citation, including where to obtain petitions; and.
- (c) Notice that failure to pay fines or contest the citation within the time specified in these rules can result in the sanctions set forth in WAC 478-116-561.

**NEW SECTION**

**WAC 478-116-311 Motor vehicle fines and penalties.** The following schedule of fines for violation of the rules listed below is hereby established:

OFFENSE	MAXIMUM FINE
01 Obstructing traffic . . . . .	\$25.00
WAC 478-116-245	
02 Enter/exits without paying . . . . .	20.00
WAC 478-116-251	
03 Failure to lock ignition and/or set brakes . . .	5.00
WAC 478-116-281	
04 Improper display of vehicle permit . . . . .	3.00
WAC 478-116-223	
05 Permit not registered to this vehicle . . . . .	5.00
WAC 478-116-227	
06 Occupying more than one stall or space . . .	10.00
WAC 478-116-271	
07 Parking in restricted parking area . . . . .	25.00
WAC 478-116-251	
08 Parking in prohibited area . . . . .	25.00
WAC 478-116-253	
09 Parking on planted areas . . . . .	16.00
WAC 478-116-261	
10 Parking out of assigned area . . . . .	5.00
WAC 478-116-261	
11 Parking over posted time limit . . . . .	16.00
WAC 478-116-251	
12 Parking with no valid permit displayed . . .	25.00
WAC 478-116-201	
13 Parking at expired meter . . . . .	16.00
WAC 478-116-211	
14 Parking outside cycle area . . . . .	5.00
WAC 478-116-221	
15 Parking in space/area not designated for parking . . . . .	12.00
WAC 478-116-261	
16 Parking while privilege suspended . . . . .	50.00
WAC 478-116-184	
17 Use of forged/stolen vehicle permit . . . . .	100.00
WAC 478-116-184 and 478-116-227	

18 Use of revoked permit . . . . .	50.00
WAC 478-116-231	
19 Unauthorized overnight parking of a motorhome . . . . .	50.00
WAC 478-116-125	
20 Impound . . . . .	At cost
WAC 478-116-291	
21 Other violations of the university parking and traffic rules . . . . .	25.00
22 Failure to transfer a valid permit (upon application to the parking violations division the fine may be waived for the first offense in a twelve-month period). . . . .	3.00
WAC 478-116-223	
23 Parking in space designated for wheel- chair . . . . .	50.00
WAC 478-116-255	

**PART V  
IMPOUNDED MOTOR VEHICLES**

**NEW SECTION**

**WAC 478-116-401 Impoundment for failure to pay fines.** Any vehicle may be impounded for outstanding fines when, after ten consecutive days after service of a final decision of the citation hearing office imposing liability for fines, the owner has neither paid such fines nor appealed the decision to the district court. The final decision of the citation hearing office shall include notice that failure to pay outstanding fines within ten days after service will subject the vehicle to impoundment if it is found on university lands.

**NEW SECTION**

**WAC 478-116-411 Impoundment without prior notice.** A vehicle may be impounded without reasonable attempt having been made to notify the owner of the possibility of this action only in the following circumstances:

- (1) When in the judgment of a university police officer the vehicle is obstructing or may impede the flow of traffic, or is parked unattended in a posted fire lane; or
- (2) When in the judgment of a university police officer the vehicle poses an immediate threat to public safety; or
- (3) When a university police officer has probable cause to believe the vehicle is stolen; or
- (4) When a university police officer has probable cause to believe that the vehicle contains or constitutes evidence of a crime, and in the police officer's judgment impoundment is necessary to obtain or preserve such evidence; or
- (5) When a driver is arrested and/or deprived of the right to leave with the driver's vehicle, and the university police are responsible for the "safekeeping" of the vehicle.

**NEW SECTION**

**WAC 478-116-421 Impoundment of abandoned vehicles.** (1) A parking enforcement or law enforcement officer discovering an apparently abandoned motor vehicle shall attach to the vehicle a readily visible notification sticker. The sticker shall contain the following information:

- (a) The date and time the sticker was attached;
- (b) The identity of the officer;

PROPOSED

(c) A statement that if the motor vehicle is not removed within seventy-two hours from the time the sticker is attached, the vehicle will be impounded;

(d) The address and telephone number where additional information may be obtained.

(2) If the motor vehicle has an annual or quarterly permit displayed, the officer or the parking violations division shall check the records to learn the identity of the owner. The officer or the parking violations division shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

(3) If the motor vehicle is not removed within the seventy-two hours from the time the notification sticker is attached, the officer may impound the vehicle.

#### NEW SECTION

**WAC 478-116-431 Notice and redemption of impounded vehicles.** (1) Not more than twenty-four hours after impoundment of any vehicle, the University of Washington police department shall mail a notice to the registered owner of the vehicle, as may be disclosed by the vehicle license number, if such be obtainable, and to any other person who claims the right to possession of the vehicle, if such a claim is known to an officer, agent or employee of the University of Washington police department who has knowledge of the impoundment. The notice shall be mailed to the registered owner at the address provided by the Washington state department of licensing or the corresponding agency of any other state or province. If a police officer who has knowledge of the impoundment has reason to believe that an owner, or one who claims to be an owner, is residing or in custody at some different address which is known to the officer, a copy of the notice shall be mailed or personally delivered to such owner or claimant in a manner designed, as nearly as may be practicable, to give actual notice to the owner. The notice shall contain the full particulars of the impoundment, redemption, and an opportunity to contest the propriety of the impoundment as provided in WAC 478-116-541.

Similar notice shall be given to each person who seeks to redeem an impounded vehicle. If a vehicle is redeemed prior to the mailing of notice, the notice need not be mailed.

(2) Motor vehicles impounded shall be redeemed only under the following circumstances:

(a) Only the registered owner who has a valid driver's license or person authorized by the registered owner who has a valid driver's license and who produces proof of authorization and signs a receipt therefor, may redeem an impounded motor vehicle.

(b) Any person so redeeming a motor vehicle impounded shall pay the cost of such impoundment (towing and storage), together with such fines as are outstanding against the vehicle if impoundment was made pursuant to WAC 478-116-401 prior to redemption, except as provided in (c) of this subsection.

(c) Any person seeking to redeem a motor vehicle impounded under WAC 478-116-401, 478-116-411 or 478-116-421 has a right to contest the validity of impoundment or the amount of towing and storage charges and shall have the motor vehicle released upon requesting a review as

provided in WAC 478-116-541, paying any outstanding fines, and executing a promissory note, naming the University of Washington as payee, in an amount to include both the costs of towing and storage and a civil penalty of seventy-five dollars which promissory note shall immediately become due and owing in the event such person fails to pay within ten business days after service of a final decision of the citation hearing office on the petition contesting impoundment or the amount of any towing and storage charges for which such person may be found liable.

(3) In addition to any other penalty which may be imposed as a result of actions described in subsection (2)(c) of this section, campus parking privileges shall be suspended until all such debts are paid.

(4) The promissory note shall be automatically canceled and discharged when a person either:

(a) Pays the towing and storage charges and cancels the request for a review; or

(b) Pays, within ten business days after service of a final decision of the citation hearing office on the petition contesting impoundment, towing and storage charges for which such person may be liable.

## PART VI APPEALS AND PAYMENT OF MOTOR VEHICLE FINES

#### NEW SECTION

**WAC 478-116-501 Registered owner responsible for illegal parking.** In any traffic infraction or case involving a violation of this chapter relating to the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the citation was stopping, standing, or parking in violation of any such provision of this chapter together with proof of registered ownership of the vehicle at the time of the violation, shall constitute a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred. Such responsibility does not afford a defense to another person who violated these rules.

**AMENDATORY SECTION** (Amending WSR 93-14-130, filed 7/7/93, effective 8/7/93)

**WAC 478-116-520 Motor vehicles—Payment of fines and penalties.** (1) The fines that may be assessed for violations of these ((regulations)) rules are those detailed in WAC ((478-116-601)) 478-116-311. The applicable fine for a citation must be paid within twenty days of the date of the citation unless the person charged with the violation elects to contest the citation as provided in WAC ((478-116-450)) 478-116-531.

(2) Fines must be delivered in person to the citation hearing office or postmarked on or before the due date specified in these ((regulations)) rules to avoid additional penalties. An additional fine of ten dollars per offense shall be imposed for each citation which is not responded to within the time limits set forth in these ((regulations)) rules.

(3) The ((regulations)) rules contained in this chapter shall be(=

~~(a) Published at the direction of the manager of the parking division in the University of Washington Daily at least twice each calendar year; and~~

~~(b)) available in the citation hearing office, the university police department, and ((the)) parking ((division)) services.~~

~~((4) The following information shall be printed on the parking citation:~~

~~(a) The fine schedule and instructions for payment;~~

~~(b) Instructions for contesting the citation, including where to obtain petitions; and~~

~~(c) Notice that failure to pay fines or contest the citation within the time specified in these regulations can result in the sanctions set forth in WAC 478-116-540.))~~

#### NEW SECTION

**WAC 478-116-531 Motor vehicles—Election to pay fine or contest citation.** (1) A person who receives a citation shall, within twenty days of the date thereof, either pay the applicable fine or contest the issuance of the citation in the manner prescribed in this section. Payment of the fine shall constitute a waiver of the right to contest the citation. Failure to either pay the fine or contest the citation within twenty days of the date of the citation shall automatically result in a final decision of the citation hearing office.

(2) A person wishing to contest a citation may do so by completing and submitting a parking and traffic citation petition (hereinafter "petition") to the citation hearing office within twenty days of the date of the citation. The petition shall include a statement explaining the reasons for contesting the citation. The presiding officer shall review the petition and provide written notification of his or her decision to the person submitting the petition within ten days of taking action on the petition. If the petition is denied, the notification shall include a brief statement of the reasons for the decision and information about the opportunity for further review. Any fine owed on a written decision on a petition not contested as provided in subsection (3) of this section shall be paid within twenty-one days after service of the decision.

(3) A person wishing to contest the written decision on the petition may request a review by contacting the citation hearing office orally or in writing within twenty-one days after service of the decision. The request for review shall contain an explanation of the alleged violator's position and a statement of reasons why the decision on the petition was incorrect. The reviewing officer shall, within twenty days of the date of the request, conduct a review and render a final written decision, which shall include a brief statement of the reasons for the decision and information about the opportunity to appeal the decision to the district court. Any final decision of the reviewing officer not appealed as provided in subsection (5) of this section shall be paid within ten days after service of the decision.

(4) If neither party has requested a review of the written decision on the petition, the citation hearing office may, within twenty days after service of the written decision, conduct a review and issue a final decision on its own motion and without notice to the parties, but it may not take any action on review less favorable to the alleged violator than the written decision on the petition without giving the

alleged violator notice and opportunity to explain his or her view of the matter.

(5) A person wishing to appeal a final decision of the citation hearing office to the district court may, within ten days of service of the final decision, file a written notice with the university police department. Documents relating to the appeal shall immediately be forwarded to the district court, which shall have jurisdiction to hear the appeal de novo. No appeal to the district court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section.

(6) A person who files a petition under subsection (2) of this section may request the opportunity to provide an oral statement before the presiding officer. A request to make an oral statement must be included in the petition. If the request for an oral statement is made, the presiding officer shall provide reasonable notice of the time and place for receiving the oral statement. At the discretion of the reviewing officer, oral statements may also be considered in requests under subsection (3) of this section. A request to make an oral statement must be included in the request for review. If the request for an oral statement is granted by the reviewing officer, the reviewing officer shall provide reasonable notice of the time and place for receiving oral statements.

#### NEW SECTION

**WAC 478-116-541 Motor vehicles—Election to contest impoundment.** (1) A person wishing to contest impoundment of his or her motor vehicle may do so by completing and submitting a petition to the citation hearing office within twenty days of the date of the notice of impoundment. The petition shall include a statement explaining the reasons for contesting the impoundment. The presiding officer shall review the petition and provide written notification of his or her decision to the person submitting the petition within ten days of taking action on the petition. If the petition is denied, the notification shall include a brief statement of the reasons for the decision and information about the opportunity for further review.

(2) A person wishing to contest the decision of the presiding officer on a petition contesting impoundment may request a review by contacting the citation hearing office orally or in writing within twenty-one consecutive days after service of the decision. The request for review shall contain an explanation of the petitioner's position and a statement of reasons why the decision on the petition was incorrect. The reviewing officer shall, within twenty consecutive days of the date of the request, conduct a review and render a final written decision, which shall include a brief statement of the reasons for the decision and information about the opportunity to appeal the decision to the district court in accordance with WAC 478-116-531(5).

(3) The presiding or reviewing officer shall automatically grant a request by any party to make an oral statement with respect to a petition contesting impoundment. Such a request may be included in the petition, request for review or any response thereto. The presiding or reviewing officer shall provide reasonable notice of the time and place for receiving oral statements.

PROPOSED

NEW SECTION

**WAC 478-116-551 Motor vehicles—Presiding and reviewing officer.** The presiding and reviewing officers shall be appointed in accordance with WAC 478-108-030 and shall have authority to hear and decide matters involving impoundment of vehicles and violations of these rules including, but not limited to, the ability to issue warnings, dismiss citations, and reduce, suspend, or impose the fines set forth in WAC 478-116-311. Insofar as possible, students from the University of Washington school of law shall be given priority consideration for appointment as presiding officers.

NEW SECTION

**WAC 478-116-561 Motor vehicles—Enforcement of decisions of citation hearing office.** In addition to the actions authorized pursuant to WAC 478-116-101(5), 478-116-184 (1)(f), and 478-116-520(2):

(1) Any parking fine which remains unpaid after the due date set forth in these rules constitutes a delinquent and unpaid debt due and owing the University of Washington and may be processed for collection in accordance with applicable statutes and university procedures; and

(2) Any vehicle if found parked on university lands may be impounded for outstanding parking fines.

**PART VII****BICYCLES AND NONMOTORIZED VEHICLES**NEW SECTION

**WAC 478-116-605 Bicycle parking and traffic rules.**

(1) The primary aim of the bicycle control program is safety. This aim will be achieved by keeping bicycles out of buildings, away from building exits, and parking them off paths and sidewalks. All bicycle owners are encouraged to register their bicycles at the university police department.

(2) Bicycles may be ridden any place where vehicles are permitted. They may be ridden on most sidewalks, though pedestrians always have the right of way. It shall be a violation of this section for any bicycle rider to fail to yield to pedestrians, or to ride a bicycle on paths, sidewalks or streets where signs indicate such is prohibited. An audible signal or warning must be given by the bicyclist whenever there is any appreciable risk of injury to a pedestrian not otherwise aware of the presence of the bicycle.

(3) Bicycles operated on campus paths, sidewalks and roadways shall be subject to all relevant state statutes regulating bicycle use. Violation of those statutes shall be considered a violation of this section.

(4) Bicycles shall be operated in a safe manner at all times on campus paths, sidewalks and roadways. Riding at speeds too fast for conditions, weaving in and out of vehicular or pedestrian traffic or similar unsafe actions shall be considered "negligent riding." Negligent riding shall be a violation of this section.

(5) Bicycles shall be parked only in bicycle racks. All bicycle owners are encouraged to secure their bicycles with a secure lock. At no time shall a bicycle be parked in a building, except where bicycle storage rooms are provided, near a building exit, on a path or sidewalk, in planted areas

nor chained or otherwise secured to trees, lamp standards, railings, or sign posts.

(6) Moving a bicycle into any unauthorized area such as a building or construction zone is prohibited.

(7) Bicycle racks in campus areas are for parking and shall not be used for overnight storage, except for those racks adjacent to residence halls which may be used for storage when the owner/operator is a current resident of that hall.

(8) Impoundment for illegal parking.

(a) Bicycles parked in violation of subsections (5), (6) and (7) of this section will be subject to seizure and impoundment by the university.

(b) Except as provided by subsection (7) of this section, a bicycle abandoned or parked on university land for twenty-one consecutive days or longer is presumed abandoned and is subject to seizure and impoundment by the university. A bicycle will not be considered abandoned when the owner/operator is unable to remove it and so notifies the university police department. A bicycle that has been obviously stripped or vandalized may be immediately impounded.

(c) Impounded bicycles will be stored at the university police department. Bicycles will be released at specified times and upon presentation of proof of ownership and payment of a ten-dollar fine. Owners of impounded bicycles, if identifiable, will be notified as soon as reasonably possible after impoundment and must reclaim their bicycle within fifteen consecutive days. Bicycles unclaimed after sixty consecutive days will be subject to sale at a public auction conducted by the university surplus property department.

(d) The university and its officers, agents and employees shall not be liable for loss or damage of any kind resulting from impoundment, storage, or sale of any item under this section.

(e) Impoundment or sale of any bicycle under this section shall not substitute for, nor release any person from liability for damage to persons or property caused by use of a bicycle on campus.

NEW SECTION

**WAC 478-116-611 Nonmotorized vehicles—Citation for violations.** (1) The university police department may issue a citation for a violation of these rules.

(a) The citation shall set forth the date, approximate time, locality, and nature of the violation.

(b) The citation shall be served upon the person charged with the violation by delivery, mail, or placement upon the bicycle involved.

(2) The following information shall be printed on the citation:

(a) The fine schedule and instructions for payment;

(b) Instructions for contesting the citation, including where to obtain petitions; and

(c) Notice that failure to pay fines or contest the citation within the time specified within these rules can result in the sanctions set forth in WAC 478-116-561.

**NEW SECTION**

**WAC 478-116-620 Nonmotorized vehicles—Fines and penalties.** (1) The fines that may be assessed for violations of these rules are those detailed in WAC 478-116-630. The applicable fine for citation must be paid within twenty consecutive days of the date of the citation unless the person charged with the violation elects to contest the citation as provided in WAC 478-116-640.

(2) Fines must be delivered in person to the citation hearing office or postmarked on or before the due date specified in these rules to avoid additional penalties. An additional fine of twenty dollars per offense shall be imposed for each citation which is not responded to within the time limits set forth in these rules.

**NEW SECTION**

**WAC 478-116-630 Nonmotorized vehicles—Schedule of fines and penalties.** The following schedule of fines for violations of these rules listed below is hereby established:

OFFENSE	MAXIMUM FINE
01 Failure to yield to pedestrians . . . . . WAC 478-116-605(2)	\$10.00
02 Riding in restricted/prohibited areas . . . . . WAC 478-116-605(2)	10.00
03 Violation of state bicycle codes . . . . . WAC 478-116-605(3)	10.00
04 Negligent riding . . . . . WAC 478-116-605(4)	25.00
05 Other violations of the university parking and traffic rules . . . . .	10.00

**NEW SECTION**

**WAC 478-116-640 Nonmotorized vehicles—Election to pay fine or contest citation.** (1) A person who receives a citation shall, within twenty consecutive days of the date thereof, either pay the applicable fine or contest the citation in the manner prescribed in this section. Payment of the fine shall constitute a waiver of the right to contest the citation. Failure to either pay the fine or contest the citation within twenty consecutive days of the date of the citation shall automatically result in a final decision of the citation hearing office.

(2) A person wishing to contest a citation may do so by completing and submitting a citation petition (hereinafter "petition") to the citation hearing office within twenty consecutive days of the date of the citation. The petition shall include a statement explaining the reasons for contesting the citation. The presiding officer shall review the petition and provide written notification of his or her decision to the person submitting the petition. If the petition is denied, the notification shall include a brief statement of the reasons for the decision and information about the opportunity for further review. Any fine owed on a written decision on a petition not contested as provided in subsection (3) of this section shall be paid within twenty-one consecutive days after service of the decision.

(3) A person wishing to contest the written decision on the petition may request a review by contacting the citation hearing office orally or in writing within twenty-one consec-

utive days after service of the decision. The request for review shall contain an explanation of the alleged violator's position and a statement of the reasons why the decision on the petition was incorrect. The reviewing officer shall conduct a review and render a final written decision, which shall include a brief statement of the reasons for the decision and information about the opportunity to appeal the decision to the superior court of King County. Any final decision of the reviewing officer not appealed as provided in subsection (5) of this section shall be paid within ten consecutive days after service of the decision.

(4) If neither party has requested a review of the written decision on the petition, the citation hearing office may, within twenty consecutive days after service of the written decision, conduct a review and issue a final decision on its own motion and without notice to the parties. It, however, may not take any action on review less favorable to the alleged violator than the written decision on the petition without giving the alleged violator notice and opportunity to explain his or her view of the matter.

(5) A person wishing to appeal a final decision of the citation hearing office to the superior court of King County may, within ten consecutive days of service of the final decision, file a written notice with the citation hearing office. Documents relating to the appeal shall immediately be forwarded to the superior court, which shall have jurisdiction to review the appeal. No appeal to the superior court may be taken unless the citation has been contested as provided in subsections (2) and (3) of this section.

(6) A person who files a petition under subsection (2) of this section may request the opportunity to provide an oral statement before the presiding officer. A request to make an oral statement must be included in the petition. If the request for an oral statement is made, the presiding officer shall provide reasonable notice of the time and place for receiving the oral statement. At the discretion of the reviewing officer, oral statements may also be considered in requests under subsection (3) of this section. A request to make an oral statement must be included in the request for review. If the request for an oral statement is granted by the reviewing officer, the reviewing officer shall provide reasonable notice of the time and place for receiving the oral statement.

**NEW SECTION**

**WAC 478-116-650 Nonmotorized vehicles—Presiding and reviewing officer.** The presiding and reviewing officers shall be appointed in accordance with WAC 478-108-030 and shall have authority to hear and decide matters involving violation of these rules including, but not limited to, the ability to issue warnings, dismiss citations, and reduce, suspend, or impose the fines set forth in WAC 478-116-605 (8)(c), 478-116-620(2) and 478-116-630. Insofar as possible, students from the University of Washington school of law shall be given priority consideration for appointment as presiding officers.

PROPOSED

NEW SECTION

**WAC 478-116-660 Nonmotorized vehicles—Enforcement of decisions of citation hearing office.** In addition to the actions authorized pursuant to WAC 478-116-650, any fine which remains unpaid after the due date set forth in these rules constitutes a delinquent and unpaid debt due and owing the University of Washington and may be processed for collection in accordance with applicable statutes and university procedures.

NEW SECTION

**WAC 478-116-670 Use of skateboards.** (1) Skateboard use in pedestrian areas, including but not limited to walkways, ramps, concourses, and plazas (such as "Red Square"), and on internal university streets and loading areas on the campus is restricted solely to transporting an individual from one campus destination to another. Any recreational, athletic, or other exhibitional use of skateboards unrelated to transportation is strictly prohibited, unless expressly approved in advance by the committee on the use of university facilities, pursuant to chapter 478-136 WAC.

(2) Skateboard use in violation of this section shall result in the following:

(a) For the first offense, the university police department will record the name of the individual and provide a written warning against further skateboard use in violation of this section. Individuals who cannot produce satisfactory identification will be given a receipt for their skateboard, which will be impounded at the university police station until they are able to return with the receipt and identification. There will be no impound fee.

(b) For a second offense, within twenty-four months of any previous offense or warning, the skateboard will be impounded for not less than forty-eight hours and the offender shall be subject to a fine of not less than ten dollars plus applicable impound fee.

(c) For a third or subsequent offense, within twenty-four months of any previous two offenses, warnings, or combination thereof, the skateboard will be impounded for not less than thirty days and the offender shall be subject to a fine of not less than thirty dollars plus applicable impound fee.

(d) Impounded skateboards will be held by the university police department and released only during regular business hours to individuals with satisfactory identification. Payment of a ten-dollar storage fee will also be required for release, except as provided in (a) of this subsection.

(3) Skateboards impounded under this section which are unclaimed sixty consecutive days after the applicable minimum impoundment time period has elapsed will be presumed abandoned and be subject to sale at a public auction conducted by the university surplus property department.

(4) The university and its officers, agents, and employees shall not be liable for loss or damage of any kind resulting from impounding, storage, or sale of any item under this section.

(5) Impoundment or sale of any skateboard under this section shall not substitute for, nor release any person from liability for damage to persons or property caused by use of a skateboard at the university.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 478-116-050	Revisions of these regulations.
WAC 478-116-055	Definitions.
WAC 478-116-060	Permits required for vehicles on campus.
WAC 478-116-070	Parking of motorcycles and scooters.
WAC 478-116-080	Bicycle parking and traffic regulations.
WAC 478-116-088	Use of skateboards.
WAC 478-116-090	Tourists and visitors—Exemption from permit requirements.
WAC 478-116-095	Authorized use of streets and parking facilities.
WAC 478-116-100	Speed.
WAC 478-116-110	Regulatory signs and directions.
WAC 478-116-120	Pedestrians—Right of way.
WAC 478-116-130	Designated and assigned parking areas.
WAC 478-116-140	Parking within designated spaces.
WAC 478-116-160	Exceptions to parking restrictions.
WAC 478-116-170	Special parking and traffic directions authorized.
WAC 478-116-180	Liability of university.
WAC 478-116-190	Obstructing traffic prohibited.
WAC 478-116-200	Parking—Operator's responsibility.
WAC 478-116-210	Authorization for issuance of permits.
WAC 478-116-220	Numbering of parking areas—Permit designation.
WAC 478-116-230	Parking allocation.
WAC 478-116-240	Visitor parking.
WAC 478-116-250	Other types of permits.
WAC 478-116-260	Athletic event parking.
WAC 478-116-270	Evening permits.
WAC 478-116-280	Transferable permits.
WAC 478-116-290	Temporary and replacement permits.
WAC 478-116-300	Vehicle and driver's licenses required.
WAC 478-116-310	Annual and quarterly permit periods.
WAC 478-116-320	Parking area, zone and reserved area designations, and area assignments.
WAC 478-116-330	Responsibility of person to whom permit issued.
WAC 478-116-340	Display of permits.
WAC 478-116-345	Permits and vehicle license plates.
WAC 478-116-350	Metered parking.
WAC 478-116-355	Overtime parking violations—Repeated.

WAC 478-116-360	Carpools.
WAC 478-116-370	Recall of permits.
WAC 478-116-380	Annual parking fee payment.
WAC 478-116-390	Schedule of fees.
WAC 478-116-400	Refund conditions.
WAC 478-116-440	Citation for violation.
WAC 478-116-450	Election to pay fine or contest citation.
WAC 478-116-460	Presiding and reviewing officer.
WAC 478-116-540	Enforcement of decisions of citation hearing office.
WAC 478-116-550	Registered owner responsible for illegal parking.
WAC 478-116-570	Regulatory signs, markings, barricades, etc.
WAC 478-116-580	Impoundment of vehicles.
WAC 478-116-582	Impoundment for failure to pay fines.
WAC 478-116-584	Impoundment without prior notice.
WAC 478-116-586	Impoundment of abandoned vehicles.
WAC 478-116-588	Notice and redemption of impounded vehicles.
WAC 478-116-589	Election to contest impoundment.
WAC 478-116-590	Delegation of authority.
WAC 478-116-601	Fines and penalties.
WAC 478-116-610	Effective date, severability, savings clause.

**WSR 97-09-074**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed April 22, 1997, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-11-125 or 96-15-020.

Title of Rule: Exclusivity agreements, WAC 230-12-230. WSR 96-15-020 (CR-101).

Purpose: This rule allows a limited exception to the prohibition on exclusivity agreements.

Statutory Authority for Adoption: RCW 9.46.070 (1), (2), (4), 9.46.310.

Statute Being Implemented: See above.

Summary: Amendatory section WAC 230-12-230 Agreements restricting freedom to buy and sell—Prohibited—Limited exception. Purpose: This amendment allows a limited exception to the prohibition on exclusivity agreements. The director may authorize exclusive agreements for the sale of new technology, such as progressive pull tab systems, if the manufacturer has a patent or other exclusive right. This rule is necessary in order to implement the current progressive pull tab system that became effective in January 1997.

Reasons Supporting Proposal: This rule is necessary in order to implement the current progressive pull tab system that became effective in January 1997.

Name of Agency Personnel Responsible for Drafting: Soojin Kim Lacey, (360) 438-7654, ext. 310; Implementation: Frank Miller, Lacey, (360) 438-7654, ext. 302; and Enforcement: Ben Bishop, Lacey, (360) 438-7654, ext. 370.

Name of Proponent: Staff, in conjunction with representatives from charitable and nonprofit organizations, private.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is an amendment to the rule prohibiting exclusivity agreements. The purpose of this rule is to allow the director of the Washington State Gambling Commission to authorize exclusive agreements for the sale of new technology, such as progressive pull tab systems, if the manufacturer has a patent or exclusive right. This rule will affect manufacturers, distributors, and punchboard pull tab licensees. The potential agency impact is minimal.

Proposal Changes the Following Existing Rules: See Purpose, Summary, and Reasons Supporting Proposal.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on June 13, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by June 1, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: Soojin Kim, Mailstop 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by May 30, 1997.

Date of Intended Adoption: June 13, 1997.

April 21, 1997

Soojin Kim

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 15, filed 4/17/74)

**WAC 230-12-230 Agreements restricting freedom to buy and sell—Prohibited—Limited exception.** No person shall enter into any agreement, expressly or implied, with any other person which requires any person to purchase exclusively from, or sell exclusively to, any other person, or which prohibits any person from purchasing from or selling to any other person, any devices, materials, products, equipment, or services which are used or offered in any way in connection with a gambling activity. No person shall enter into any agreement, express or implied, wherein any person is prohibited from, or required to, make purchases or sales only within a particular geographic area: *Provided*, That such agreements may be entered into between a licensee and its licensed representative. *Provided Further*, That upon approval of the director, a manufacturer may require exclusive purchase agreements for gambling products related to new technologies, including but not limited to pull

tab dispensing devices that are designed to use specifically developed pull tab series if such technologies were developed by the manufacturer and the manufacturer has a patent or other exclusive right to protect its distribution.

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

**WSR 97-09-075**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed April 22, 1997, 11:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-15-020.

Title of Rule: Repealing pull tab rules, WAC 230-30-015, 230-30-016, 230-30-018, 230-30-060, 230-30-065, 230-30-075, 230-30-100, 230-30-105, 230-30-110, 230-30-130, and 230-30-215. WSR 96-15-020 (CR-101).

Purpose: These rules establish repeal of progressive pull tab rules for housekeeping.

Statutory Authority for Adoption: RCW 9.46.070 (5), (6).

Statute Being Implemented: See above.

Summary: Repeal of pull tab rules, WAC 230-30-015 Substitute flares, 230-30-016 Replacement of commission identification stamps on pull tab dispensing devices, 230-30-018 Transfer of any gambling devices requiring identification and inspection services stamps to be affixed—Requirement for documentation, 230-30-060 Punchboard restrictions, 230-30-065 Punchboard/pull tab price per play to be posted, 230-30-075 Punchboard and pull tab prize restrictions—Minimum percentage of prizes available, 230-30-100 Punchboard and pull tabs to display name of its licensed manufacturer, 230-30-105 Only one flare may be used with a punchboard or pull tab series, 230-30-110 Possession of duplicate numbered-color coded pull tab series prohibited, 230-30-130 Flare to display pull tab series number, and 230-30-215 Trade-in used pull tab dispensing devices permitted provided certain records are maintained.

Name of Agency Personnel Responsible for Drafting: Soojin Kim, Lacey, (360) 438-7654, ext. 310; Implementation: Frank Miller, Lacey, (360) 438-7654, ext. 302; and Enforcement: Ben Bishop, Lacey, (360) 438-7654, ext. 370.

Name of Proponent: Staff, in conjunction with representatives from charitable and nonprofit organizations, private.

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

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

Proposal Changes the Following Existing Rules: See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on June 13, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by June 1, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: Soojin Kim, Mailstop 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by May 30, 1997.

Date of Intended Adoption: June 13, 1997.

April 21, 1997

Soojin Kim

Rules and Policy Coordinator

**WSR 97-09-076**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
 [Filed April 22, 1997, 11:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-11-125.

Title of Rule: Bingo net income variance procedures, WAC 230-04-190, 230-04-260, 230-20-060, 230-20-062, 230-50-010, 230-50-012, and 230-20-242. WSR 96-11-125 (CR-101).

Purpose: These rules establish bingo net income variance procedures.

Statutory Authority for Adoption: RCW 9.46.070 (1), (2), (10), (16), chapter 34.05 RCW.

Statute Being Implemented: See above.

Summary: Bingo net income variance rules.

Amendatory section WAC 230-04-190 Issuance of license—Expiration—Restrictions. Purpose: This amendment clarifies that a license is valid for either one year or for the level of gross gambling receipts applicable to that license class.

Amendatory section WAC 230-04-260 Effect of exceeding license class income limit. Purpose: This amendment clarifies the procedures that apply when a license will exceed the gross gambling receipts allowed for their class of license. The amendment further states that bingo licensees whose licenses have previously been limited must prove they are capable of meeting the net return requirements for the higher license class before they will be upgraded to that class of license. It also provides that certain licensees who fail to apply for an upgrade and who exceed their license class will have their license summarily suspended.

Amendatory section WAC 230-20-060 Petitioning the director for a variance from net return requirements. Purpose: This amendment clarifies the process for petitioning the director a variance from net return requirements. All petitions will be heard in a brief adjudicative proceeding to ensure due process requirements are met. The rule also allows the director to grant a general variance applicable to

all bingo licensees affected by certain conditions (e.g. weather).

**Amendatory section WAC 230-20-062 Minimum net return from bingo games—Sanctions.** Purpose: This amendment clarifies that when a bingo licensee's license has been limited, the licensee may petition for review to the commission and the commission will conduct its review consistent with the procedures set forth in the Administrative Procedure Act.

**Amendatory section WAC 230-50-010 Adjudicated proceedings—Hearings.** Purpose: This amendment provides that the brief adjudicative proceedings will be used in denials of application to operate at a higher bingo license class and petition for variances from net return requirements.

**Amendatory section WAC 230-50-012 Summary suspensions.** Purpose: This amendment provides that a charitable or nonprofit organization that is found to be primarily operating bingo for gambling purposes and uses program funds to subsidize the gambling activity constitutes an immediate danger to the public safety and welfare. Such a finding may result in a summary suspension of gambling activities.

**Amendatory section WAC 230-20-242 Activities conducted as a part of bingo games—Authorization—Restrictions.** Purpose: This amendment will allow net income from raffles conducted at bingo games to be included in net return from bingo.

**Name of Agency Personnel Responsible for Drafting:** Soojin Kim, Lacey, (360) 438-7654, ext. 310; **Implementation:** Frank Miller, Lacey, (360) 438-7654, ext. 302; and **Enforcement:** Ben Bishop, Lacey, (360) 438-7654, ext. 370.

**Name of Proponent:** Staff, in conjunction with representatives from charitable and nonprofit organizations, private.

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

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

**Proposal Changes the Following Existing Rules:** See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2); therefore, a small business economic impact is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

**Hearing Location:** Red Lion City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on June 13, 1997, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Susan Green by June 1, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

**Submit Written Comments to:** Soojin Kim, Mailstop 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by May 30, 1997.

**Date of Intended Adoption:** June 13, 1997.

April 21, 1997

Soojin Kim

Rules and Policy Coordinator

**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 97-10 issue of the Register.

**WSR 97-09-077  
PROPOSED RULES  
GAMBLING COMMISSION**

[Filed April 22, 1997, 11:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-15-020.

**Title of Rule:** Pull tab rules, WAC 230-04-202, 230-04-203, 230-08-017, 230-04-040, 230-08-270, 230-12-315, 230-30-030, 230-30-040, 230-30-050, 230-30-055, 230-30-070, 230-30-072, 230-30-080, 230-30-102, 230-30-103, 230-30-104, 230-30-106, 230-30-210, and 230-30-300. WSR 96-15-020 (CR-101).

**Purpose:** These rules establish progressive pull tab rules.

**Statutory Authority for Adoption:** RCW 9.46.070 (5), (6).

**Statute Being Implemented:** See above.

**Summary:** Pull tab rules.

**Amendatory section WAC 230-04-202 Fees—Bona fide charitable and nonprofit organizations.** Purpose: This rule amends WAC reference in subsection (11) with housekeeping changes.

**Amendatory section WAC 230-04-203 Fees—Commercial stimulant and other business organizations.** Purpose: This rule amends WAC reference in subsection (8) with housekeeping changes.

**Amendatory section WAC 230-08-017 Control of gambling equipment—Use of identification and inspection services stamps.** Purpose: Deleted subsection (7), moved to new WAC 230-12-315. Adds new subsection (7) allowing operators to purchase stamps for devices requiring annual stamps. Adds new subsection (8) from repealed WAC 230-30-016 allowing for replacement of worn stamps. Added subsection (9) from repealed WAC 230-30-018 requiring manufacturers to account for stamps issued.

**Amendatory section WAC 230-08-040 Sales invoices—Minimum information to be recorded for sales and transfer of gambling equipment.** Purpose: Added subsection (1)(d) from WAC 230-30-050(5) regarding recording merchandise on sales invoices. Added subsection (3) from WAC 230-30-030(2) regarding penalties for failing to properly complete sales invoices. Housekeeping: Structure.

**New section WAC 230-08-270 Transfer of any gambling devices requiring identification and inspection services stamps to be affixed.** Purpose: This new rule includes the requirement (from repealed WAC 230-30-018) regarding accountability of gambling devices that are transferred. The rule is changed to include all gambling devices that are transferred. The rule is changed to include all gambling devices, not just pull tab-related devices.

**New section WAC 230-12-315 The authority to charge a fee for agency review of schemes, equipment, etc.** Purpose: This new rule provides that the commission shall be reimbursed its costs for conducting reviews relating to gambling activities (from WAC 230-08-017).

PROPOSED

Amendatory section WAC 230-30-030 Punchboard and pull tab quality control—Special inspections and transfer invoices—Special fees to recover costs. Purpose: This amendment adds a provision that makes manufacturers responsible for reimbursing distributors or operators for unused games that commission staff takes for quality control testing purposes. Moves subsection (2) to WAC 230-08-040. Adds subsection (2) which explains what to do with a defective punchboard or pull tab series and when a quality control report is to be completed. Adds subsection (3) which clarifies commission policy regarding procedures for handling credits and reimbursements for defective games. Housekeeping language changes.

Amendatory section WAC 230-30-040 Bonus pull tab ((games)) series and carry over jackpots—Definitions—Restrictions. Purpose: This amendment prohibits the use of substitute flares and merchandise on bonus games. Housekeeping language changes have also been made.

Amendatory section WAC 230-30-050 Punchboard and pull tab operation and dispensing limitations. Purpose: Adds section regarding prohibition on modifying flares (repealed WAC 230-30-065). Deletes section regarding recording merchandise on sales invoices; moved to WAC 230-08-040. Adds sections regarding pull tabs that are sold from dispensing machines to be mixed prior to sale. Adds subsection regarding pull tab dispensing limitations (from WAC 230-30-080).

Amendatory section WAC 230-30-055 Standards for construction of punchboards. Purpose: Housekeeping: Deleted "Effective July 1, 1988," in subsection (2) language. Added subsection (from WAC 230-30-060) regarding prohibition to taped edges on punchboards.

Amendatory section WAC 230-30-070 Control of prizes. What may be awarded as a punchboard or pull tab prize? Purpose: Housekeeping language changes. Changed the requirements for deleting prizes from a pull tab flare from \$20.00 to \$50.00. Changed requirement for recording information about winners from \$20.00 to \$50.00.

Amendatory section WAC 230-30-072 Punchboard and pull tab inventory control—Retention requirements—Audit adjustments. Purpose: Reworded for clarification and reorganized for improved understanding. Changed the sequence of the rule. Deleted information regarding defective games; moved WAC 230-30-030.

Amendatory section WAC 230-30-080 ((Pull tab dispensing limitations)) punchboard and pull tab series restrictions—Prizes, size of game, and location of winners. Purpose: Renamed and changed focus of rule. Deleted subsection (1) regarding flare requirement; moved to WAC 230-30-106. Deleted subsections (2)-(6) regarding dispensing limitations; moved to WAC 230-30-050. Added subsection from repealed WAC 230-30-075 regarding "last sale" prizes; added "whichever is less." Added subsections regarding location of winners and general game requirements. Changed the prize limit on pull tabs from \$500.00 to \$1,000.

Amendatory section WAC 230-30-102 Pull tab series assembly and packaging. Purpose: Housekeeping language changes. Changed language regarding the mixing of pull tabs to NAGRA (national standard) language. Moved some of subsection (2) to WAC 230-30-210.

Amendatory section WAC 230-30-103 Standards for construction of pull tabs. Purpose: Deleted pull tab thickness and length/width requirements. Changed serial numbering requirement to NAGRA (national standard) language.

Amendatory section WAC 230-30-104 Possession or sale of pull tab series in which winners or location of winners may be determined in advance—Prohibited. Purpose: Subsection (2) moved to WAC 230-30-210.

Amendatory section WAC 230-30-106 Flare restrictions, standards for flares, and substitute flares made by manufacturers, distributors, or operators. Purpose: Revised to include WAC 230-30-015 and 230-30-130. Added "1/2" lettering requirement for future flares. Added standards for bonus flares. Clarify original content of substitute flare requirements.

Amendatory section WAC 230-30-210 ((~~Buying from and selling to only licensees required~~)) Sales restrictions. Purpose: Renamed and changed focus of rule. Added subsection stating the rule shall not prohibit licensed distributors from selling to Indian tribes operating Class II activities which are legal under federal law. Added subsection (from repealed WAC 230-30-104) regarding possession of games in which the location of winners is known. Added subsection (from repealed WAC 230-30-100) stating that all games must be made by licensed manufacturer. Added subsection (from WAC 230-30-102) stating that manufacturers shall not sell games in which location of winners is known.

Amendatory section WAC 230-30-300 Recall of defective punchboards, pull tabs or pull tab dispensing devices. Purpose: Housekeeping language changes.

Name of Agency Personnel Responsible for Drafting: Soojin Kim, Lacey, (360) 438-7654, ext. 310; Implementation: Frank Miller, Lacey, (360) 438-7654, ext. 302; and Enforcement: Ben Bishop, Lacey, (360) 438-7654, ext. 370.

Name of Proponent: Staff, in conjunction with representatives from charitable and nonprofit organizations, private.

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

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

Proposal Changes the Following Existing Rules: See Purpose and Summary above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposal is exempt under RCW 19.85.025(2), therefore, a small business economic impact statement is not required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This agency does not choose to make section 201, chapter 403, Laws of 1995, apply to this rule adoption.

Hearing Location: Red Lion City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on June 13, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Susan Green by June 1, 1997, TDD (360) 438-7638, or (360) 438-7654, ext. 302.

Submit Written Comments to: Soojin Kim, Mailstop 42400, Olympia, WA 98504-2400, FAX (360) 438-8652, by May 30, 1997.

Date of Intended Adoption: June 13, 1997.

April 21, 1997  
Soojin Kim  
Rules and Policy Coordinator

**AMENDATORY SECTION** (Amending Order 304, filed 11/21/96, effective 1/1/97)

**WAC 230-04-202 Fees—Bona fide charitable/nonprofit organizations.** Bona fide charitable and nonprofit organizations shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	FEE
<b>1. AMUSEMENT GAMES</b> (Fee based on annual gross gambling receipts)		
* Class A	Premises only	\$ 52
Class B	Up to \$10,000	\$ 52
Class C	Up to \$25,000	\$ 276
Class D	Up to \$50,000	\$ 443
Class E	Over \$50,000	\$ 772

\* Allows a charitable or nonprofit organization to enter into a contract with Class "B" or above commercial amusement game licensee to locate and operate amusement games on their premises.

<b>2. BINGO</b>		
<b>GROUP</b>	(Fee based on annual gross gambling receipts)	
Class A	Up to \$ 15,000	\$ 52
Class B	Up to \$ 50,000	\$ 161
Class C	Up to \$ 100,000	\$ 329
Class D	Up to \$ 250,000	\$ 886
Class E	Up to \$ 500,000	\$ 1,492
Class F	Up to \$1,000,000	\$ 2,996
Class G	Up to \$1,500,000	\$ 4,324
Class H	Up to \$2,000,000	\$ 5,776
Class I	Up to \$2,500,000	\$ 7,216
Class J	Up to \$3,000,000	\$ 8,658
Class K	Up to \$3,500,000	\$ 9,712
Class L	Up to \$4,000,000	\$ 11,102
Class M	Over \$4,000,000	\$ 12,492
((and above)) and above		

<b>3. CARD GAMES</b>		
Class A	General (Fee to play charged)	\$ 553
Class B	Limited card games - hearts, rummy, mahjongg, pitch, pinochle, and cribbage (Fee to play charged)	\$ 161
Class C	Tournament only - no more than ten consecutive days per tournament	\$ 52
Class D	General (No fee to play charged)	\$ 52

<b>4. FUND-RAISING EVENT</b>		
Class A	One event - not more than 24 consecutive hours	\$ 329
Class B	One event - not more than 72 consecutive hours	\$ 553
Class C	Additional participant in joint event (not lead organization)	\$ 161
Class D	Fund-Raising Event Equipment Distributor - rents or leases, equipment for fund-raising event or recreational gaming activity for no more than ten times per year*	\$ 219
Class E	Fund-Raising Event Equipment	\$ 553

Distributor - rents or leases equipment for fund-raising event or recreational gaming activity more than ten times per year.

\* Charitable and nonprofit organizations licensed to conduct fund-raising events may rent their equipment up to four occasions during the term of the license without getting licensed as a distributor.

<b>5. PUNCHBOARDS/ PULL TABS</b> (Fee based on annual gross gambling receipts)			
Class A	Up to \$ 50,000	\$ 5,000	\$ 527
Class B	Up to \$ 100,000	\$ 5,000	\$ 940
Class C	Up to \$ 200,000	\$10,000	\$ 1,774
Class D	Up to \$ 300,000	\$10,000	\$ 2,578
Class E	Up to \$ 400,000	\$10,000	\$ 3,330
Class F	Up to \$ 500,000	\$10,000	\$ 4,020
Class G	Up to \$ 600,000	\$10,000	\$ 4,658
Class H	Up to \$ 700,000	\$10,000	\$ 5,242
Class I	Up to \$ 800,000	\$10,000	\$ 5,776
Class J	Up to \$1,000,000	\$20,000	\$ 6,548
Class K	Up to \$1,250,000	\$25,000	\$ 7,268
Class L	Up to \$1,500,000	\$25,000	\$ 7,938
Class M	Up to \$1,750,000	\$25,000	\$ 8,490
Class N	Up to \$2,000,000	\$25,000	\$ 8,992
Class O	Over \$2,000,000	Nonapplicable	\$ 9,880

\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: *Provided*, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

<b>6. RAFFLES</b> (Fee based on annual gross gambling receipts)		
Class A	Up to \$ 5,000	\$ 52
Class B	Up to \$10,000	\$ 161
Class C	Up to \$25,000	\$ 329
Class D	Up to \$50,000	\$ 553
Class E	Up to \$75,000	\$ 886
Class F	Over \$75,000	\$ 1,326

<b>7. ((COMBINATION LICENSE))</b>		
<u>COMBINATION LICENSE</u>		
CLASS A	Allows gross gambling receipts of up to \$25,000 from bingo, \$7,500 from raffles, and \$7,500 from amusement games, not to exceed \$30,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ 100
CLASS B	Allows gross gambling receipts of up to \$60,000 from bingo, \$15,000 from raffles, and \$15,000 from amusement games, not to exceed \$75,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ 260
CLASS C	Allows gross gambling receipts of up to \$125,000 from bingo, \$30,000 from raffles, and \$30,000 from amusement games, not to exceed \$150,000 combined gross gambling receipts from all such activities. Allows general card games where no fee to play is charged.	\$ 600

<b>8. SEPARATE PREMISES</b>		
BINGO	Per occasion (see WAC 230-04-300)	\$ 26

<b>9. PERMITS</b>		
AGRICULTURAL FAIR-BINGO	(See WAC 230-04-191)	\$ 26

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RECREATIONAL GAMING ACTIVITY (RGA)	(See WAC 230-25-330 and 230-02-505)	\$ 52
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Class E	Up to \$ 500,000	\$3,884
Class F	Up to \$1,000,000	\$6,662
Class G	Over \$1,000,000	\$8,334

10. CHANGES

NAME	(See WAC 230-04-310)	\$ 26
LOCATION	(See WAC 230-04-320)	\$ 26
FRE	(Date or time) (See WAC 230-04-325)	\$ 26
LICENSE CLASS	(See WAC 230-04-260)	\$ 26
DUPLICATE LICENSE	(See WAC 230-04-290)	\$ 26

\* Allows a business that is qualified under WAC 230-04-138 (1)(f), (g), (h), (i), or (j) to enter into a contract with a class "B" or above commercial amusement game licensee to locate and operate amusement games upon their premises.

\*\* Provides for a fee reduction of \$150 when: Renewing an annual license; applying for an additional license(s) at the same premises; and/or applying for multiple licenses at the same premises.

11. SPECIAL FEES

INVESTIGATION REPLACEMENT	(See WAC 230-04-240) As required	\$ 26
IDENTIFICATION STAMPS	(See WAC 230-04-260)	As required
EXCEEDING LICENSE CLASS REVIEW,	(See WAC 230-08-017) As required	
INSPECTION AND/OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES	(See WAC 230-12-315)	As required

3. PUNCHBOARDS/

PULL TABS	(Fee based on annual gross gambling receipts)		
			VARIANCE*
Class A	Up to \$50,000	\$ 5,000	\$ 527
Class B	Up to \$100,000	\$ 5,000	\$ 940
Class C	Up to \$200,000	\$10,000	\$1,774
Class D	Up to \$300,000	\$10,000	\$2,578
Class E	Up to \$400,000	\$10,000	\$3,330
Class F	Up to \$500,000	\$10,000	\$4,020
Class G	Up to \$600,000	\$10,000	\$4,658
Class H	Up to \$700,000	\$10,000	\$5,242
Class I	Up to \$800,000	\$10,000	\$5,776
Class J	Up to \$1,000,000	\$20,000	\$6,548
Class K	Up to \$1,250,000	\$25,000	\$7,268
Class L	Up to \$1,500,000	\$25,000	\$7,938
Class M	Up to \$1,750,000	\$25,000	\$8,490
Class N	Up to \$2,000,000	\$25,000	\$8,992
Class O	Over \$2,000,000	Nonapplicable	\$9,880

\* A licensee will be allowed a one-time variance for each license class without having to upgrade or pay the penalties set forth in WAC 230-04-260: *Provided*, That a licensee utilizing the variance shall be required to upgrade to the higher license class upon renewal.

12. SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$ 26
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**AMENDATORY SECTION** (Amending Order 304, filed 11/21/96, effective 1/1/97)

**WAC 230-04-203 Fees—Commercial stimulant and other business organizations.** All persons seeking to operate gambling activities at business locations shall submit the following fees to the commission when applying for gambling licenses, permits, miscellaneous changes, inspection services, or when assessed the cost of special investigation procedures by the commission:

LICENSE TYPE	DEFINITION	SEE
<b>1. CARD GAMES</b>		
Class B	Limited card games - hearts, rummy, pitch, pinochle, mahjongg, and/or cribbage (Fee to play charged)	\$ 161
Class C	Tournament only, no more than ten consecutive days per tournament.	\$ 161
Class D	General (No fee to play charged)	\$ 52
Class E	General (Fee to play charged)	
E-1	One table only	\$ 386
E-2	Up to two tables	\$ 663
E-3	Up to three tables	\$1,106
E-4	Up to four tables	\$2,214
E-5	Up to five tables	\$3,330

**2. COMMERCIAL AMUSEMENT GAMES**

(Fee based on annual gross gambling receipts)

* Class A	Premises only	(( <del>(\$)</del> )) ** \$276/\$126
Class B	Up to \$ 50,000	\$ 386
Class C	Up to \$ 100,000	\$ 992
Class D	Up to \$ 250,000	\$2,214

**4. DISTRIBUTOR**

(Fee based on annual gross sales of gambling related supplies and equipment)

(a) Class A	Nonpunchboard/pull tab only	\$ 553
Class B	Up to \$ 250,000	\$1,106
Class C	Up to \$ 500,000	\$1,660
Class D	Up to \$1,000,000	\$2,214
Class E	Up to \$2,500,000	\$2,882
Class F	Over \$2,500,000	\$3,550

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification.

**(b) FUND-RAISING EVENT EQUIPMENT DISTRIBUTOR**

Class A	Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$219
Class B	Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$553

**5. MANUFACTURER**

(Fee based on annual gross sales of gambling related supplies and equipment)

Class A	Machines only	\$ 553
Class B	Up to \$ 250,000	\$1,106
Class C	Up to \$ 500,000	\$1,660
Class D	Up to \$1,000,000	\$2,214
Class E	Up to \$2,500,000	\$2,882
Class F	Over \$2,500,000	\$3,550

In addition to the annual fee, the commission will assess all applicants the actual costs incurred in conducting the investigation and inspection necessary for initial certification, quality control inspection for additional

PROPOSED

activities or product lines, and renewal of licenses when travel cost is incurred to complete the investigation.

6. PERMITS

AGRICULTURAL FAIR/ SPECIAL PROPERTY BINGO		
Class A	One location and event only (See WAC 230-04-191)	\$ 26
Class B	Annual permit for specified different events and locations (See WAC 230-04-193)	\$161
RECREATIONAL GAMING ACTIVITY (RGA)		
	(See WAC 230-02-505 and 230-25-330)	\$ 52

7. CHANGES

NAME	(See WAC 230-04-310)	\$26
LOCATION	(See WAC 230-04-320)	\$26
BUSINESS	(Same owners)	\$52
CLASSIFICATION	(See WAC 230-04-340)	
LICENSE CLASS	(See WAC 230-04-260)	
	New class fee, less previous fee paid, plus	\$26
DUPLICATE	(See WAC 230-04-290)	\$26
LICENSE		
OWNERSHIP	(See WAC 230-04-340)	\$52
OF STOCK		
LICENSE	(See WAC 230-04-125, 230-04-340, and 230-04-350)	\$52
TRANSFERS		

8. SPECIAL FEES

INVESTIGATION	(See WAC 230-04-240)	As required
IDENTIFICATION AND	(See WAC 230-08-017)	As required
INSPECTION		
SERVICES STAMPS		
QUALITY CONTROL	(See WAC 230-30-030)	As required
INSPECTION FEES		
REPLACEMENT OF	<del>((See WAC 230-30-016))</del> (See WAC 230-30-017)	\$26
IDENTIFICATION		
STAMPS		
EXCEEDING LICENSE	(See WAC 230-04-260)	As required
CLASS		
REVIEW,	<del>((See WAC 230-08-017))</del> (See WAC 230-12-315)	As required
INSPECTION AND/ OR EVALUATION OF EQUIPMENT, PARAPHERNALIA, SERVICES, OR SCHEMES		
SPECIAL SALES	(See WAC 230-04-115)	As required
PERMITS		

9. SIX-MONTH PAYMENT PLAN	(See WAC 230-04-190)	\$26
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**AMENDATORY SECTION** (Amending Order 304, filed 11/21/96, effective 1/1/97)

**WAC 230-08-017 Control of gambling equipment—**  
**Use of identification and inspection services stamps.** To ensure gambling equipment is used only as authorized, manufacturers, distributors, and operators shall maintain close control over all gambling equipment in their possession. Each transfer of such equipment shall be documented

by completing an invoice or other written record setting forth the information required by WAC 230-08-040. Identification and inspection services stamps obtained from the commission shall be used to identify gambling equipment and shall be permanently and conspicuously affixed to all equipment and devices designated by the commission. Once attached, identification and inspection services stamps shall not be removed, disfigured, or otherwise tampered with by any person. These stamps shall be attached and controlled in the following manner:

(1) Identification and inspection services stamps shall be attached to the following gambling equipment and devices:

- (a) Punchboards and pull tab series;
- (b) Pull tab dispensing devices;
- (c) Disposable bingo cards: *Provided*, That this requirement applies to cards shipped for use in Washington state after December 31, 1993. All inventory on hand at the distributor and operator level at the close of business on December 31, 1993, shall be exempt from this requirement;

(d) Coin or token-activated amusement games operated at any Class A amusement game license location;

- (e) Electronic bingo card daubers; and
- (f) Other gambling equipment or devices, as determined by the director.

(2) Identification and inspection services stamps shall only be sold to and attached by licensed manufacturers or commission staff: *Provided*, That a licensed owner of controlled gambling equipment may purchase and attach stamps (~~(per WAC 230-30-018))~~ as outlined in subsections (7) and (8) of this section;

(3) The fee charged for identification and inspection services stamps shall be set by the commission at a level sufficient to fund regulation and control of gambling equipment. Fees shall be as set out below:

- (a) Punchboards and pull tabs:
  - (i) Standard - twenty-seven cents;
  - (ii) Progressive jackpot pull tab series - ten dollars per series;
  - (iii) Bonus pull tab series with carry-over jackpot prizes - five dollars;

- (b) Pull tab dispensing devices(~~((+H+))~~):
  - (i) Mechanical and electro-mechanical - twenty-seven cents;
  - (ii) Electronic - pull tab dispensing devices that require initial and ongoing evaluation of electronic components or functions, such as reading encoded data on pull tabs, accounting for income or prizes, and other functions determined by the director - one hundred dollars annually.

- (c) Disposable bingo cards:
  - (i) Sets of individual cards or sheets of cards - twenty-seven cents;
  - (ii) Collations of cards - one dollar and ten cents.

(d) Coin or token-activated amusement games operated at any Class A amusement game license location - twenty-five dollars annually;

- (e) Electronic bingo card daubers - ten dollars annually;
- (f) Other equipment or devices - the actual cost of inspection or approval, as determined by the director.

(4) Devices that require identification and inspection services stamps to be installed annually shall have such stamps attached prior to placing any device into play and, on or before December 31 of the year preceding operation for

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each subsequent year: *Provided*, That annual identification and inspection services stamps shall be purchased and attached to electronic pull tab dispensing devices, coin operated amusement games, and electronic bingo card daubers located in the state on December 31, 1996, prior to the operation of such devices on or after January 1, 1997.

(5) Identification stamps shall only be affixed to gambling equipment or devices in such a manner as to assure reasonable inspection without obstruction. If equipment is enclosed or packaged within protective materials, the stamps shall be readily visible for inspection without removal of any portion of the protective packaging: *Provided*, That when more than one device is packed in a shipping carton, this requirement shall not apply if the identification and inspection services stamp numbers of all devices contained in the carton are printed or otherwise noted on the outside of the carton. Stamps and records entry labels shall be affixed in the following manner:

(a) Punchboards - on the reverse side in an area that will not obstruct removal of punches: *Provided*, That if sufficient space is not available on the reverse side, the records entry labels may be wrapped around and/or partially attached to the edge of a punchboard in a manner that will not obstruct display of prizes available or other information required by rules of the commission;

(b) Pull tabs - on the face or reverse side of the flare. If placed on the face, then they must be in an area that will not obstruct prizes available or any other information required by rules of the commission;

(c) Pull tab dispensing devices - on the outside of the main body, in an area that is not normally removed and replaced, and in a manner that will not obstruct the view of the pull tabs available for play. The records entry labels shall not be affixed to dispensing devices and may be discarded; and

(d) Disposable bingo cards - on the packing label attached to the outside of the shipping carton. Records entry labels shall be attached to the packing slip: *Provided*, That when a set or collation of cards is packed in more than one shipping carton, the stamp shall be attached to carton number one and the stamp number imprinted on all remaining shipping cartons.

(6) Identification and inspection services stamps shall not be attached to gambling equipment or devices that do not comply with rules of the commission. If a piece of equipment or a device requires specific commission approval, stamps shall not be affixed prior to such approval(;-and)).

~~(7) ((Any person requesting commission staff review, inspection, and/or evaluation of equipment, paraphernalia, services, or schemes related to licensed gambling activities shall reimburse the commission the cost to conduct such. If the person requesting the service is currently licensed, there will be no assessment of cost for the first hour of service. A deposit of estimated cost may be required prior to performance of such service.))~~ A licensed owner of gambling devices which require annual identifications and inspection services stamps may purchase such from the commission. The licensee shall submit the appropriate fee, along with a form provided by the commission, to obtain the stamps.

(8) A licensed owner of pull tab dispensing devices may obtain a commission identification and inspection services stamp to replace an identification stamp affixed to a pull tab

dispensing device that has become unidentifiable due to wear. The fee for replacement of the stamp shall be as required by WAC 230-04-202 and/or 230-04-203. The operator or distributor shall furnish the following information to the commission:

(a) A copy of the invoice from the operator, distributor or manufacturer for the purchase of the dispensing device in question; or

(b) A complete description of the pull tab dispensing device, serial number, manufacturer, and the commission stamp number previously affixed to the device, if known.

(9) Manufacturers shall maintain records that will allow accountability for all identification and inspection services stamps issued to them by the commission for at least three years after they are affixed to devices and sold. This accountability shall be by indefinite retention of unused or damaged stamps or by records as set out in WAC 230-08-025: *Provided*, That damaged stamps may be returned to the commission and will be replaced with serviceable stamps if they are accompanied by a detailed listing of the damaged stamps and a ten cent per stamp service charge.

AMENDATORY SECTION (Amending WSR 94-01-033, filed 12/6/93, effective 1/6/94)

WAC 230-08-040 Sales invoices—Minimum information to be recorded for transfer of gambling equipment and merchandise—Retention—Penalties. The following requirements apply to sales invoices:

(1) In addition to entries required by WAC 230-08-025, the following information shall be recorded on invoices for sales or transfer of gambling equipment and merchandise:

~~((1) Punchboards/pull tabs— for each board or series—~~

~~(a) Trade name of device;~~

~~(b) Type of device;~~

~~(c) Form number or other manufacturer assigned scheme to specifically identify a device, including the size or number of chances; and—~~

~~(d) Identification and inspection services stamp number.~~

~~(2) Pull tab dispensing devices:~~

~~(a) Trade name of device;~~

~~(b) Type of device; and~~

~~(c) Identification and inspection services stamp number.~~

~~(3) Disposable bingo cards— for each set of cards or collation of packets:~~

~~(a) Type of product, including product line;~~

~~(b) Description of product, including the number of cartons, "series," "on," "cut," and "up";~~

~~(c) Identification and inspection services stamp number;~~

~~(d) Serial number or, if packets, serial number of the top page;~~

~~(e) Color and border pattern or, if packets, color and border pattern of the top page; and~~

~~(f) The unit or package number when a series or collation has been divided as authorized in WAC 230-20-192(6).~~

~~(4) All other gambling equipment:~~

~~(a) Trade name of device;~~

~~(b) Type of device;~~

~~(c) Serial number or other identification numbers or characteristics; and~~

~~(d) Identification and inspection services stamp number.)~~

(a) Punchboards/pull tabs - for each board or series:

(i) Trade name of device;

(ii) Type of device;

(iii) Form number or other manufacturer-assigned scheme to specifically identify a device, including the size or number of chances; and

(iv) Identification and inspection services stamp number.

(b) Pull tab dispensing devices:

(i) Trade name of device;

(ii) Type of device; and

(iii) Identification and inspection services stamp number.

(c) Disposable bingo cards - for each set of cards or collation of packets:

(i) Type of product, including product line;

(ii) Description of product, including the number of cartons, "series," "on," "cut," and "up";

(iii) Identification and inspection services stamp number;

(iv) Serial number or, if packets, serial number of the

top page;

(v) Color and border pattern or, if packets, color and border pattern of the top page; and

(vi) The unit or package number when a series or collation has been divided as authorized in WAC 230-20-192(6).

(d) Merchandise to be used as prizes for any gambling activity, whether purchased from a licensed distributor or from other than a licensed distributor, must be recorded on a sales invoice or receipt. The following information must be on the sales invoice or receipt provided by the seller:

(i) The date of purchase;

(ii) The company's name and adequate business address;

(iii) A full description of each item purchased;

(iv) The quantity of items purchased; and

(v) The cost per individual items purchased; and

(e) All other gambling equipment:

(i) Trade name of device;

(ii) Type of device;

(iii) Serial number or other identification numbers or characteristics; and

(iv) Identification and inspection services stamp number.

(2) All sales invoices and receipts must be maintained by the operator for at least three years.

(3) Any manufacturer, distributor, or licensed representative of either, who fails to accurately complete any invoice for the sale or return of a punchboard, pull tab series, pull tab dispensing device, disposable bingo cards, related merchandise, or other gambling device may be assessed a fee of up to fifty dollars per incomplete invoice. The fee shall be used to defray extra costs incurred by the commission in tracking transfers or other monitoring procedures as a result of errors or omissions.

#### NEW SECTION

**WAC 230-08-270 Transfer of any gambling devices requiring identification and inspection services stamps to be affixed.** (1) Persons selling or otherwise furnishing punchboards, pull tabs, pull tab dispensing devices, disposable bingo cards, or other gambling equipment shall account for every such device received and/or transferred.

(2) All transfers shall be made by completing a sales invoice or credit memo, in accordance with WAC 230-08-040 and 230-08-025.

#### NEW SECTION

**WAC 230-12-315 Request for services related to gambling activities—Fees.** Any person requesting commission staff review, inspection, and/or evaluation of equipment, paraphernalia, services, or schemes related to licensed gambling activities shall reimburse the commission the cost to conduct such. If the requestor is currently licensed or has applied for a license, there will be no assessment of cost for the first two hours of service: *Provided*, That this two-hour exemption does not apply to any review conducted as part of a relicensing investigation. A deposit of the estimated cost may be required prior to performance of such service. If a deposit is required, it shall be received by the commission prior to the performance of any substantial work on the request.

AMENDATORY SECTION (Amending Order 198, filed 10/17/89, effective 11/17/89)

**WAC 230-30-030 Punchboard and pull tab quality control program—Special inspections (~~and transfer invoices—Special fees to recover costs~~), defective devices, reimbursements, and fees.** In order to ensure the integrity of punchboards and pull tab series, the commission shall establish and maintain a quality control program. This program shall include a level of inspection and evaluation deemed necessary by commission staff to assure standards set forth in this title are met. The cost of administering this program shall be borne by licensed manufacturers. The quality control program shall include at least the following:

(1) Special inspections - the commission shall have the authority to select any punchboard or pull tab series, whether held by an operator, storage service, distributor, or manufacturer and to examine the quality and/or integrity of the punchboard or pull tab series in any manner, including punching out or pulling all chances remaining thereon(~~—~~ *Provided*, That if the punchboard or pull tab series so inspected is thereby altered in any manner and no defect, alteration, deceptive condition, or other violation is discovered, then the owner shall be reimbursed by the commission for his cost for the punchboard or pull tab series, and the device shall become the property of the commission. *Provided further*, That for each such punchboard or pull tab series inspected which is found to be defective in any area related to a quality control deficiency, by the manufacturer, a fee not to exceed \$100.00 per each such punchboard or pull tab series inspected may be assessed by the commission against the manufacturer of the punchboard or pull tab series to compensate the commission for the inspection.

(2) ~~Transfer invoices—any manufacturer, distributor, or licensed representative of either, that fails to accurately complete any invoice for the sale or return of a punchboard, pull tab series, dispensing device, or related merchandise as required by WAC 230-30-018 may be assessed a fee of up to \$50.00 per invoice. The fee shall be used to defray extra costs incurred by the commission in tracking transfers or other monitoring procedures as a result of errors or omissions).~~ Manufacturers shall be responsible for reimbursing

distributors or operators for unused games selected by the commission for quality control testing purposes. The reimbursement process shall be determined by commission policy. Manufacturers may be billed for the cost of quality control investigations which exceed forty hours of commission staff time.

(2) Defective punchboards or pull tab series - each punchboard or pull tab series which is deemed to be defective or unplayable shall be treated as follows, based on the status of the game:

(a) No punchboard or pull tab series which has been placed out for play and for which punches or tabs have been sold shall be returned to the distributor or manufacturer without commission approval. Upon discovery of a defect, the operator shall remove the board or series from play and notify the commission. The commission shall complete a quality control report which shall be used to return the board or series to the distributor or manufacturer; and

(b) Defective or recalled boards or series which have not yet been played may be returned to the distributor or manufacturer without a quality control report.

(3) Credits or reimbursements for defective punchboards or pull tab series:

(a) Manufacturers shall reimburse distributors or operators for the cost of a replacement board or series which comply with subsection (2) of this section;

(b) Manufacturers may, at their discretion, reimburse operators for only actual net losses resulting from the play of a board or series due to its defect; and

(c) Credits and reimbursements for defective punchboards or pull tab series shall be handled as follows:

(i) All boards or series returned to a distributor or manufacturer shall be properly recorded on a credit memo in accordance with WAC 230-08-025; and

(ii) Reimbursements of actual net losses incurred from manufacturers to operators may be given through a credit memo to a distributor or a check to the operator. Adequate supporting documentation for all reimbursements must be retained by the manufacturer.

(4) Commission fees to recover costs for defective punchboards or pull tab series - the commission may assess a fee not to exceed one hundred dollars for each defective punchboard or pull tab series sold to operators for which a quality control report is completed. In addition, this fee shall not be assessed beyond the fifth series of a particular form number with the same defect.

AMENDATORY SECTION (Amending Order 305, filed 11/21/96, effective 1/1/97)

**WAC 230-30-040 Bonus pull tab ((~~game~~)) series and carry-over jackpots—Definitions—Restrictions.** For purposes of this title, the following definitions, restrictions, and requirements apply to bonus pull tab ((~~game~~)) series and carry-over jackpots:

(1) Definitions:

(a) Bonus pull tab ((~~game~~)) series - A pull tab ((~~game~~)) series that includes a predetermined number of pull tabs which allow a player the opportunity to advance to a bonus section to determine the prize.

(b) Carry-over jackpot prizes - A designated jackpot prize on a bonus pull tab ((~~game~~)) series which, if not won,

is carried over to another bonus pull tab ((~~game~~)) series. There is no progression of the jackpot prize based on sales or receipts.

~~((What are the)) In addition to all other rules governing pull tabs, what additional requirements ((of)) apply to bonus pull tab ((~~game~~)) series?~~

(2) Bonus pull tab ((~~game~~)) series must comply with the following:

(a) Each flare shall clearly set out the following:

(i) All prizes available, in accordance with WAC 230-30-106-~~((2)(b))~~;

(ii) The number of chances available to advance and win a larger prize; and

(iii) The number of winning tabs at each prize level;

(b) Only guaranteed or minimum prizes may be used in calculating the sixty percent payout required by WAC ~~((230-30-075))~~ 230-30-080.

(c) The following are prohibited for use with bonus pull tab series:

(i) Substitute flares;

(ii) Merchandise prizes; and

(iii) "Last sale" prizes ~~((are not allowed on bonus pull tab games))~~.

*What additional requirements apply to bonus pull tab ((~~game~~)) series with carry-over jackpots?*

(3) Bonus pull tab ((~~game~~)) series with carry-over jackpot prizes must meet the following additional requirements:

(a) The carry-over jackpot prize amount shall not be included in the sixty percent payout calculation;

(b) The amount of the carry-over jackpot prize and the method of carry-over shall be determined by the manufacturer and disclosed on the flare; and

(c) Carry-over jackpot prize amounts may not exceed two thousand five hundred dollars ~~((as required by WAC 230-30-075(2); and~~

~~((d) Carry-over jackpot prizes are authorized only on flares designed for bonus pull tab games. No substitute flares are allowed))~~.

~~((~~In~~)) What additional records must be maintained for bonus pull tab ((~~game~~)) series with carry-over jackpots ~~((, how must winning tickets be redeemed and what records should I keep))?~~~~

(4) The following ~~((requirements apply to the redemption of winning tickets and record keeping))~~ additional records must be maintained for bonus pull tab ((~~game~~)) series with carry-over jackpots:

(a) For jackpot prizes ~~((one thousand two))~~ six hundred dollars and over, the winner's full name, address, and social security number shall be recorded on a separate form for income tax purposes;

(b) All winning tabs and winner information for jackpot prizes ~~((over five hundred dollars))~~, along with the ((~~game~~)) flares, must be retained for at least one year from the date from which the ((~~game~~)) series were removed from play; and

~~((c) ((Winning tabs shall be redeemed in the same manner as required by WAC 230-30-070. For prizes where the winning tab is part of the flare, the amount of the prize~~

~~awarded and the information required to be documented in WAC 230-30-070 (7)(a) shall be recorded on a separate piece of paper, as authorized by WAC 230-30-070 (7)(e); and~~

~~(d)) Operators are required to maintain a separate record documenting the flow of carry-over jackpots from one ((game)) series to another.~~

~~((e) Once all opportunities in a section of the flare have been won, all references to prizes no longer available to be won must be deleted from the flare.))~~

*What aspects of bonus pull tab ((games)) series with carry-over jackpots require agency approval, and what standards are applicable to this approval process?*

(5) The director or his/her designee shall approve all bonus pull tab ((games)) series with carry-over jackpot prizes.

(a) The following shall be approved prior to sale in Washington:

(i) The manufacturing process used to manufacture bonus pull tab ((games)) series with carry-over jackpot prizes; and

(ii) The secondary win code system.

(b) Any costs related to the approval of bonus pull tab ((games)) series with carry-over jackpot prizes shall be billed to the persons requesting approval.

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

WAC 230-30-050 Punchboard and pull tab ((operation)) operating restrictions and dispensing limitations. The following operating restrictions and dispensing limitations apply to punchboards and pull tabs:

(1) No person under the age of eighteen years and no person visibly intoxicated or visibly under the influence of any narcotic, shall be allowed to play or sell any punchboard or pull tab ((device)) series. It shall be the responsibility of both the licensee and ~~((the responsibility of))~~ the person physically operating the punchboard or pull tab ((device)) series to determine and ensure that no unauthorized person is allowed to play or sell.

(2) No operator shall permit the display or operation of any punchboard or pull tab which may have in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, which may deceive the public or which affects the chances of winning or losing upon the taking of any chance thereon.

~~(3) ((All pull tabs must be sold from a commission approved dispensing device or a clear container. If pull tabs are sold out of a clear container, the complete series must be placed in a container and mixed prior to being offered for sale. Failure to mix may result in a minimum five day suspension of license for each series not mixed. Licensees may bundle pull tabs into stacks of up to twenty dollars, provided the bundles are thoroughly mixed prior to sale to the public.~~

~~(4)) No punchboard or pull tab series shall be placed out for play unless it meets the requirements of WAC 230-30-080.~~

~~(4) Once placed out for play, a punchboard or pull tab series flare may not be modified or otherwise changed,~~

except for the deletion of prizes as required by WAC 230-30-070.

~~(5) All records, reports and receipts relating to a punchboard or pull tab series in play must be retained on the licensed premises so long as the series or punchboard is in play and be made available on demand to law enforcement officers and representatives of the commission.~~

~~((5) When operators purchase merchandise to be used as prizes on punchboards or pull tab series from other than a licensed distributor, the following information must be on the invoice provided by the seller:~~

~~(a) The date of purchase;~~

~~(b) The company's name and adequate business address;~~

~~(c) A full description of each item purchased;~~

~~(d) The quantity of items purchased;~~

~~(e) The cost per individual items purchased; and~~

~~(f) The sales invoice or receipt must be maintained by the operator for at least three years.)) (6) Pull tab dispensing limitations:~~

~~(a) No pull tab shall be added to a series of pull tabs after that series has been shipped from its place of manufacture;~~

~~(b) All pull tabs must be sold from a commission approved dispensing device or a clear container. If sold from a clear container, a majority of the pull tabs must be visible to the players so that the players are able to estimate the number of chances remaining in the series;~~

~~(c) All pull tabs in a series must be thoroughly mixed prior to being placed in a dispensing device or clear container and being offered for sale. Failure to mix may result in a minimum five-day suspension of license for each series not mixed;~~

~~(d) Licensees may assemble pull tabs into bundles with a sales price of up to twenty dollars: *Provided*, That the bundles must be thoroughly mixed prior to sale to the public;~~

~~(e) No person shall put out any pull tab series for play unless the series of pull tabs is wholly contained within, or if a spindle upon, the device or container used for dispensing that series: *Provided*, That progressive jackpot pull tab games, as authorized by WAC 230-30-025, may utilize more than one machine for a series;~~

~~(f) No pull tab series, or any portion thereof, shall be placed in any pull tab dispensing device or container until any other series of pull tabs previously in the device or container has been played out or permanently removed from play: *Provided*, That in the use of a multiple series dispensing device, each series shall be played independently and in accordance with this provision;~~

~~(g) Once placed out for play, no pull tab shall be removed from the dispensing device or container until it is sold or the series is permanently removed from play, except only:~~

~~(i) Those pull tabs removed by commission representatives or other law enforcement agency inspecting the device; or~~

~~(ii) Those tabs temporarily removed during necessary repair or maintenance of the dispensing device or container; and~~

~~(h) Once a pull tab series has been removed from public play it shall not again be put out for play, except tabs removed under (g) of this subsection.~~

AMENDATORY SECTION (Amending Order 173, filed 11/23/87)

**WAC 230-30-055 Standards for construction of punchboards.** All punchboards sold for use in the state of Washington must comply with the following standards:

(1) **Patterns:** The punchboard shall be designed and manufactured with special care so as to eliminate any patterns between punchboards, or portions of punchboards, from which the location or approximate location of winning punches may be determined. Winning punches shall be randomly distributed and mixed among all other punches in the punchboard. Manufacturers shall employ at least the following steps to insure that no pattern exists.

(a) The form or permanent number sheets shall be mixed prior to cutting;

(b) After the strips (straws) have been crimped, all strips shall be thoroughly mixed prior to insertion in punchboards;

(c) When filling punchboards, workers shall alter the procedures for filling each separate set, so as to prevent any pattern between sets of punchboards; and

(d) No more than eight punchboards from any one set of boards shall be included in any case of punchboards for shipment to Washington.

(2) **Serial numbers:** ~~((Effective July 1, 1988,))~~ Serial numbers set forth on the form or permanent number sheets shall be nonsequential so as to ensure that no pattern is created which would permit the tracking of boards through the serial number.

(3) **Guaranteed numbers:** All numbers or symbols designated as winners on the flare must be guaranteed by the manufacturer as being present in the board. The manufacturer may at their option place a sticker or equivalent on the back of each punchboard setting forth additional numbers or symbols that are guaranteed to be in the board. The additional numbers or symbols on the back of the board shall not exceed 5% of the total punches in the board without the written permission of the commission.

(4) **Security:** All punchboards must be sealed so it is impossible to determine the number or symbol of any punch prior to being punched out of the board by any method or device including but not limited to the use of markings or light. Punchboards which have taped sides, corners, or edges are prohibited.

(5) **Step-up boards:**

(a) All cards, straws, or punches that contain the winners in the step-up portion of any punchboard shall be completely sealed so as to prevent premature winner identification and such items shall be thoroughly mixed so as to ensure that no pattern of winners exists.

(b) Step-up boards that contain winners covered by seals must have at least twenty-five different face sheets for use on that specific step-up board. Face sheets shall be utilized in such a manner so as to ensure random distribution during the manufacturing process.

AMENDATORY SECTION (Amending Order 305, filed 11/21/96, effective 1/1/97)

**WAC 230-30-070 Control of prizes.** *What may be awarded as a punchboard or pull tab prize?*

(1) All prizes from the operation of punchboards and pull tabs shall be awarded in cash or in merchandise. No licensee shall offer to pay cash in lieu of merchandise prizes which may be won.

(a) Value of merchandise prizes. For purposes of this rule, the retail value of a merchandise prize shall be the amount actually paid ~~((therefor))~~ by the licensed operator plus 50 percent of that actual cost.

~~((b))~~ (b) Additional chances on a punchboard or pull tab game may not be awarded as a prize. Provided, That prizes may involve the opportunity to advance and win ~~((bonus prizes))~~ a larger prize on the same punchboard or pull tab game as set forth in subsection (3) ~~((below))~~ of this section.

*What is a bonus prize?*

(2) A bonus prize is a prize offered in a bonus pull tab game, defined in WAC 230-30-040(1). The awarding of the prize involves an immediate, additional opportunity to advance to a section of the game to determine the prize.

*What additional requirements apply to the offering of bonus or step-up prizes?*

(3) The bonus or step-up prizes may not be less than the highest prize available, whether cash or merchandise, which might otherwise have been won by the punch or pull tab for which the opportunity was awarded. Each punchboard or pull tab game offering bonus or step-up prizes must clearly indicate on its flare the terms and conditions under which the bonus or step-up prize may be won, including the amount of the bonus or step-up prize.

*How must prizes be displayed?*

(4) The licensee shall display prizes so that a customer can easily determine which prizes are available from any particular punchboard or pull tab series or device operated or located upon the premises. In addition, the following requirements apply.

(a) Merchandise prizes shall be displayed as follows:

(i) In the immediate vicinity of the punchboard or pull tab series and in plain view;

(ii) If size or space constraints do not allow the prize to be displayed as provided in (a)(i) of this subsection, the merchandise prize may be displayed elsewhere on the premises provided that a specific reference to that actual prize is noted on the flare; or

(iii) If the merchandise prize cannot be displayed on the premises, an accurate description and/or photograph of the prize must be displayed in plain view on or immediately adjacent to the flare.

(b) Cash prizes shall be clearly represented on the prize flare;

(c) Combination cash and merchandise prizes must meet the requirements of both ~~((subsections))~~ (a) and (b) of this subsection;

*What is the procedure for removing prizes from flares and presenting prizes to winning players?*

(5) The following procedures apply to the removal of prizes from the game flare and the presentation of prizes to winning players:

(a) Upon determination of a winner of a merchandise prize, the licensee shall immediately remove that prize from the flare and present the prize to the winner upon demand;

(b) Upon determination of a winner of any cash prize of ~~((twenty))~~ fifty dollars or more, or of any merchandise prize with a retail value of ~~((twenty))~~ fifty dollars or more, the licensee shall permanently and conspicuously delete all references to that prize from any flare, punchboard, or pull tab dispensing device upon which such reference may appear, and from any other list, sign, or notice which may be posted, in such a manner that all future customers will know the prize is no longer available. On ~~((bonus))~~ step-up punchboards and bonus pull tab games, once all opportunities in a section of the flare have been won, all references to prizes no longer available to be won must be deleted on the flare. Operators may correct an inadvertently deleted prize by noting on the flare that such prize is still available. Such reference shall be permanently and conspicuously deleted when the prize is actually awarded. Failure to permanently and conspicuously delete a prize from the flare may result in the director initiating actions to revoke a license for violation of RCW 9.46.190 (defrauding a participant). The prize shall be paid or delivered to the winner only after all reference to such prize has been deleted from the flare.

*What must I do if someone buys out a punchboard or pull tab game?*

(6) Payment of prizes. The licensee must pay or award to the customer or player playing the punchboard or pull tab series all such prizes that are required to be, but have not been, deleted from the flare when the punchboard or pull tab series is completely played out.

*What is the procedure for redemption of winning pull tabs or punches?*

(7) Record of winners. When any person wins a cash prize of over ~~((twenty))~~ fifty dollars or wins a merchandise prize with a retail value of more than ~~((twenty))~~ fifty dollars from the play of any punchboard or pull tab series, the licensee or licensee's representative shall make a record of the win. The record of the win shall be made in the following manner:

(a) The winners shall be required to print their name and date of birth, in ink, upon the side of the winning punch or tab opposite the winning symbol(s);

(b) The licensee or their representative shall then verify the winner's identity and record the date and initial the winning punch or tab; and

(c) If the pull tab or punch is constructed or printed in such a manner as to preclude recording the information required in (a) and (b) of this subsection in a legible manner, the licensee may record the required information on a sheet of paper not less than three inches by five inches and staple the winning tab or punch thereto.

(8) Defacing winning punches or tabs. The licensee shall, within twenty-four hours after a winning pull tab or punch of twenty dollars or more has been presented for payment, mark or perforate the winning symbols in such a manner that the pull tab or punch cannot be presented again for payment.

*What special operating conditions apply to spindle, banded, or jar type pull tab games which award merchandise prizes only?*

(9) Spindle, banded, or "jar" type pull tabs played in a manner which awards merchandise prizes only. Pull tab series which award only merchandise prizes valued at no more than twenty dollars, are hereby permitted to employ schemes whereby certain predesignated pull tabs are free or the player is otherwise reimbursed the actual cost of said pull tabs. Flares for spindle-type pull tabs operated in this manner shall designate the total number of pull tabs in the series and the total number of pull tabs designated as free or reimbursable. Free or reimbursable pull tabs in these types of pull tab series shall not constitute a prize or prizes nor shall moneys collected and later reimbursed constitute revenue for the purposes of determining gross gambling receipts.

**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 261, filed 12/5/94, effective 1/5/95)

**WAC 230-30-072 Punchboard and pull tab inventory control—Retention requirements—Audit adjustments.** Each punchboard and pull tab series purchased or otherwise obtained by an operator shall be controlled and accounted for ~~((in the following manner:—(1)))~~. Each operator shall closely monitor punchboard and pull tab series purchased to assure that Washington state identification and inspection service stamp numbers are correctly entered in all records and each device purchased is properly recorded. The following control procedures apply:

~~((a) At the time a punchboard or pull tab series is delivered, each operator will assure that all required data is correctly recorded by the distributor by comparing the actual Washington state identification and inspection services stamp number attached to each punchboard and pull tab series to the number recorded on the purchase invoice;~~

~~((b)) (1) The delivery/receipt of punchboards and pull tab series shall be recorded as follows:~~

~~((a) All purchases of punchboards or pull tab series shall be recorded on a standard distributor's invoice, which will be used by the operator as a record to account for the punchboard or pull tab series between the time it is purchased and removed from play. Each invoice shall include space for the operator to ((either)) attach ((a)) the records entry label ((or enter the Washington state identification and inspection services stamp number)) from the device and the date the device was placed out for play: *Provided*, That in lieu of the distributor's invoice recording system, licensees utilizing a computerized recordkeeping system may use a separate inventory record to account for purchases and uses of punchboards and pull tabs~~((—Entries required to be made by the distributor on the purchase invoice shall be entered by the operator on the alternative inventory record at the time devices are received. The inventory record may be manually maintained or generated from a computer data base. If generated from a computer data base, all requirements relating to computer data base records and printouts, as set~~~~

out in WAC 230-08-010 (6) and (7) shall be followed. Inventory records shall include space for the following entries for each punchboard or pull tab series purchased or otherwise obtained:

- (i) Distributor's name;
- (ii) Invoice number;
- (iii) Date of purchase;
- (iv) Name of the punchboard or pull tab series;
- (v) Date placed into play;
- (vi) The Washington state identification and inspection services stamp number entered by the distributor at the time of purchase; and
- (vii) The Washington state identification and inspection services stamp number entered by the operator by attaching a records entry label at the time the device is placed into play: *Provided*, That a computer generated facsimile of the number may be imprinted on the inventory record in lieu of a records entry label;

(e)) as long as all necessary information is recorded. For these records, a computer generated facsimile of the stamp number may be imprinted on the inventory record in lieu of a records entry label.

(b) At the time a punchboard or pull tab series is delivered, each operator will assure that all required data is correctly recorded by the distributor by comparing the actual Washington state identification and inspection services stamp number attached to each punchboard and pull tab series to the number recorded on the purchase invoice;

(2) At the time a punchboard or pull tab series is placed into play, each operator shall record in the allotted space on the distributor's invoice or the inventory record the following:

- ((+)) (a) Date placed into play; and
- ((+)) (b) Washington state identification and inspection services stamp number by attaching a records entry label (*Provided*, That a computer generated facsimile of the number may be imprinted on the inventory record in lieu of a records entry label).

((d) If a device is returned to a distributor for any reason, including commission required recall, the operator shall record the date, invoice or credit memo number, and "returned" on the original purchase invoice or inventory log in the spaces allotted for "date in play" and "records entry label";

(2)) (3) Each punchboard or pull tab series which is removed from ((operation)) play, together with the prize flare, all unplayed tabs, and all winning punches or tabs, shall be retained by the operator and made available for inspection, on the licensed premises, by commission agents and/or local law enforcement and taxing agencies. If devices are stored off premises, they must be produced for inspection upon demand. The minimum retention time for devices removed from play shall be:

(a) Charitable or nonprofit licensees - at least four months following the last day of the month in which the device was removed from play; ((and))

(b) Commercial stimulant licensees - at least two months following the last day of the month in which the device was removed from play: *Provided*, That all winning punches or pull tabs in excess of twenty dollars shall be retained for at least ninety days following the day the device was removed from play: *Provided further*, That any

commercial stimulant licensee ((that)) who fails to comply with all recordkeeping requirements of this title or who misstates gross gambling receipts by more than one percent during any calendar quarter shall be required, after written notification by the director, to retain all devices for at least four months following the last day of the month in which it was removed from play. Any licensee so restricted may petition the director to remove the increased retention requirement imposed after a minimum of one year. Any such petition shall include documentation of the steps taken to correct recordkeeping deficiencies. For purposes of computing gross gambling receipts for determining compliance with the recording accuracy requirement, the procedures in subsection ((5)) (6) of this section apply; and

((3)) (c) In addition to (a) and (b) of this subsection, additional retention requirements may apply to specially authorized pull tab series;

(4) Each punchboard or pull tab series which is not placed out for ((public)) play or returned to the distributor or manufacturer from whom it was originally purchased, must be retained on the licensed premises and made available for inspection by the commission ((agents)) and/or local law enforcement and taxing agencies: *Provided*, That devices may be stored off premises if they are produced for inspection upon demand;

((4) ~~Each punchboard or pull tab series which is deemed by the operator to be defective or unplayable, for any reason, shall not be returned to the distributor or manufacturer without approval from the commission. If it is found to be defective after it has been placed out for play, all other rules apply and it must be recorded as required by WAC 230-08-010: *Provided*, That the retention time required by subsection (2) above may be shortened by the commission upon inspection and written release by a commission agent;~~)

(5) Each punchboard or pull tab series which has been placed out for play and is subsequently returned to a distributor or manufacturer is exempt from the retention requirements in subsection (3) of this section. The operator must retain a copy of the quality control report for the retention period normally applicable and must record each game on its monthly record required by WAC 230-08-010. If a device is returned to a distributor for any reason, including commission required recall, the operator shall record the date, invoice or credit memo number, and "returned" on the original purchase invoice or inventory record on the corresponding entry for the device;

(6) For purposes of compliance with the requirements of this section and license class compliance, gross gambling receipts from the operation of punchboards and pull tabs shall be adjusted for commission staff audit findings by using the following procedures:

(a) Unrecorded devices - gross gambling receipts shall be increased to account for any unrecorded devices purchased by an operator by adding the maximum amount that could be generated from the device, as determined by multiplying the total number of chances available by the price of a single chance. The adjustment shall be made to the records for the month in which the device was purchased; and

(b) Recording errors - gross gambling receipts shall be increased or decreased by an adjustment factor that is based

upon the results of an audit of a sample of at least five devices randomly selected by the commission staff. The adjustment factor shall be determined by dividing the audited amount for the sample group of devices by the recorded amount for the same devices. The resulting product of this equation shall be applied to the total recorded gross gambling receipts for the calendar quarter from which the sample was taken and to the immediately preceding three quarters.

**AMENDATORY SECTION** (Amending Order 305, filed 11/21/96, effective 1/1/97)

**WAC 230-30-080 (Pull tab dispensing limitations:)**  
**Punchboard and pull tab series restrictions—Prizes, size of game, and location of winners.** ~~((1) No pull tabs shall be placed out for public play unless the total number of pull tabs originally in the series shall be clearly disclosed on the face of the flare advertising the prizes available from that series of pull tabs. The total number of pull tabs originally in the series will be placed upon the flare by the manufacturer prior to the series being sold to a distributor or operator.~~

~~(2) No pull tab shall be added to a series of pull tabs after that series has been shipped from its place of manufacture.~~

~~(3)(a) No pull tab series, or any portion thereof, shall be placed in, or if a spindle upon, any pull tab dispensing device or container until any other series of pull tabs previously in, or upon, the device or container has been played out or permanently removed from public play.~~

~~(b) Provided, that in the use of a multiple series dispensing device, each series shall be played independently and in accordance with the provisions in (a) above.~~

~~(4) No pull tab once placed out for public play shall be removed from the dispensing device or container until the series is permanently removed from public play, except only:~~

~~(a) Those pull tabs actually played by consumers; [or]  
 (b) Those pull tabs removed by commission representatives[,] or other law enforcement agency inspecting the device; or~~

~~(c) Those tabs temporarily removed during necessary repair or maintenance of the device.~~

~~(5) Once a pull tab has been removed from public play it shall not again be put out for public play, except tabs removed under subsection[s] (4)(b) and (c) [above].~~

~~(6) No person shall put out any pull tab series for public play unless the series of pull tabs is wholly contained within, or if a spindle upon, the device or container used for dispensing that series[.]. Provided, that progressive jackpot pull tab games, as authorized by WAC 230-30-025, may utilize more than one machine for a series.~~

~~(7) No person shall sell or transfer to another person in this state, or for use within this state, or put out for public play, any pull tab series which contains more than ten thousand individual pull tabs[.]. Provided, that progressive jackpot pull tab games, as authorized by WAC 230-30-025, may contain up to fifty thousand individual pull tabs.) No operator, distributor, or manufacturer, or representative thereof shall possess, display, put out for play, sell, or otherwise transfer to any person in this state, or for use in this state, any punchboard or pull tab series which:~~

(1) Does not offer prizes that are equal to or greater than sixty percent of the total gross receipts available from the punchboard or pull tab series: *Provided, That for the purposes of determining the percentage of prizes offered on any punchboard, or in any pull tab series, total merchandise prizes shall be computed at the amount actually paid by the licensed operator plus fifty percent of that actual cost;*

(2) Offers a single prize that exceeds:

(a) ~~((Five hundred))~~ One thousand dollars in cash: *Provided, That progressive jackpot pull tab prizes, as authorized in WAC 230-30-025, and carry-over jackpot prizes on bonus flares, as authorized in WAC 230-30-040, shall be exempt from this requirement and shall be subject to the limits defined in those rules; or*

(b) A merchandise prize, or combination cash-merchandise prize, for which the operator has expended more than ~~((five hundred))~~ one thousand dollars;

(3) Has multiple winners on an individual pull tab or punch that combined values exceed the single cash or merchandise prize limit in subsection (2) of this section;

(4) Offers prizes for purchasing the last ticket or last punch that exceeds:

(a) One hundred dollars cash; or

(b) Merchandise for which the licensee has expended more than one hundred dollars; or

(c) The highest prize offered, whichever is less;

(5) Contains more than ten thousand individual pull tabs: *Provided, That progressive jackpot pull tab games, as authorized by WAC 230-30-025, may contain up to fifty thousand individual pull tabs;*

(6) Utilizes a flare which does not meet the requirements of WAC 230-30-106;

(7) The winning punches or tabs have not been randomly distributed and mixed among all other punches or tabs in the board or series;

(8) The location, or approximate location, of any winning punches or tabs can be determined in advance of punching the punchboard or opening the tabs in any manner or by any device, by markings on the board, tabs, or container, or by use of a light;

(9) There exists a key to any winning numbers or symbols; or

(10) Does not conform in any other respect to the requirements of WAC rules as to the manufacture, assembly, or packaging of punchboards or pull tabs.

**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 305, filed 11/21/96, effective 1/1/97)

**WAC 230-30-102 Pull tab series assembly and packaging.** (1) Manufacturers of pull tabs shall ~~((manufacture,)) assemble((;)) and package each pull tab series in one container ~~((and in such a manner that none of the winning pull tabs, nor the location or approximate location of any of the winning pull tabs can be determined, in advance of opening the pull tabs in any manner or by any device, including but not limited to any pattern in manufacture, assembly, packaging, markings, or by the use of a light.))~~; Provided, That progressive jackpot pull tab games, as~~

authorized by WAC 230-30-025, may be packaged in more than one container under the following conditions;

(a) All boxes are shrink wrapped and sealed with a sticker or seal of the manufacturer;

(b) Each individual box must be identically labeled with a manufacturer designed referencing system to include:

(i) Individual box reference and total boxes per series;

(ii) Series number; and

(iii) Identification and inspection services stamp number;

(c) Each case must be labeled to include:

(i) Case reference and total cases per set; and

(ii) Series number; and

(d) Each box and/or case must be packaged and shipped together. Cases must be specially marked to easily identify the contents during shipping.

(2) Winning pull tabs shall be randomly distributed and mixed among all other pull tabs in a series so as to eliminate any pattern as between series, or portions of series, from which the location or approximate location of any of the winning tabs may be determined. The pull tab series must be assembled so that no placement of winners or losers exist that allows the possibility of prize manipulation or "pick out." ~~((Manufacturers shall not manufacture or offer for sale in Washington any pull tab series in which the winning pull tabs are not distributed and mixed among all other pull tabs in that series.))~~

(3) Manufacturers will mix pull tabs prior to placing them in their final packing container. The mix shall insure that pull tabs are separated from the original collated row position and dispersed amongst all rows in the final packing container.

(4) Each series of pull tabs shall contain a packing slip placed inside the package containing the name of manufacturer, series number, date the series was packaged, and the name or identification of the person who packaged the series: *Provided*, That this information may be printed on the flare or the outside of the package, box or container in which the pull tabs are packed. This information must be readily available to commission staff from the manufacturer upon request. For progressive jackpot pull tab games, the packing slip and flare must be packaged with the first box of the series.

(5) Manufacturers of pull tabs shall print on the outside of the ~~((die cut))~~ box, package, or other container of pull tabs the ~~((following))~~ message ~~(("Washington State law requires that pull tabs NOT sold through a mechanical pull tab dispensing device must be removed from the packaging container and mixed before selling to the public. Failure to remove and mix pull tabs from a packaging container may result in a minimum five day suspension of a license for each series not mixed."))~~ that pull tabs must be removed from the packaging container and thoroughly mixed prior to sale to the public: *Provided*, That the above information may be printed on a crack and peel sticker and placed on the outside of the ~~((die cut))~~ box, package, or other container of pull tabs ~~((The above information may be printed))~~ or on a ~~((colored))~~ packing slip ~~((and))~~ placed inside the package of pull tabs.

AMENDATORY SECTION (Amending Order 305, filed 11/21/96, effective 1/1/97)

**WAC 230-30-103 Standards for construction of pull tabs.** (1) ~~((All pull tabs manufactured for use in the state of Washington after January 1, 1992 shall utilize a secondary verification code to prohibit counterfeiting on tabs that award prizes greater than \$20.00. Such codes shall be approved by the director prior to use within the state. Punchboards are exempt from the secondary verification code requirements.~~

~~((2))~~ Determination of winners prohibited.

(a) Pull tabs shall be constructed and glued, sealed, or banded so that it is impossible to determine the covered or concealed numbers, symbol, set of symbols, or game protection on the pull tab until it has been dispensed to and opened by the player, by any method or device, including but not limited to, ~~((the use of a))~~ markings, variance in size, variance in paper fiber, color or printing variations or light. ~~((Winning and losing sheets for each game must be manufactured using the same paper stock and must be manufactured at the same time for all progressive jackpot pull tab games.~~

~~((3))~~ (b) All pull tabs will be constructed to insure that, when offered for sale to the public, the pull tab is virtually opaque and free of security defects wherein winning pull tabs cannot be determined prior to being opened through the use of high intensity lights, peeking, or any other method.

(2) All pull tabs, except banded and latex covered pull tabs, will be constructed using a two or three ply paper stock construction. Winning and losing sheets for each game must be manufactured using the same paper stock and must be manufactured at the same time for all progressive pull tab series, as authorized in WAC 230-30-025.

~~((4))~~ (3) The manufacturer shall conspicuously print on the ~~((face or cover sheet))~~ pull tab the series number and the name of the manufacturer or label or trademark identifying the manufacturer ~~((On banded pull tabs, the series number and the name of the manufacturer or label or trademark identifying the manufacturer shall be printed))~~ so both are readily visible prior to opening the pull tab. The label or trademark must be filed with the commission prior to the printing of the pull tab.

~~((5) The cover sheet shall be color coded when individual series numbers are repeated and may show the consumer how to open the pull tab to determine the symbols or numbers.)~~ (4) The cover sheet will contain perforated and/or clean-cut openings centered over the symbols or numbers on the back of the face sheet in such a manner as to allow easy opening by the consumer after purchase of the pull tabs, while at the same time, not permitting pull tabs to be opened prematurely in normal handling. Perforation should exist on both horizontal lines of the opening with either perforated or clean-cut on the vertical or elliptical line where the tab must be grasped for opening after bending the edge of ticket down. ~~((On latex covered pull tabs, either the face or back of the pull tab shall be color coded when individual series numbers are repeated and may show the consumer how to remove the latex to determine the symbols or numbers. On banded pull tabs, the paper stock shall be color coded when individual series numbers are repeated.~~

(6) Pull tabs will be glued or sealed so that it is impossible to determine the covered or concealed numbers, symbol

or set of symbols on the pull tab until it has been dispensed to and opened by the player.

~~(7) Thickness.~~

~~(a) Vendable pull tabs. Defined as pull tabs that are sold out of mechanical pull tab dispensing devices approved for such use in this state by the Washington state gambling commission.~~

~~(i) Single opening and double sided tabs. The overall bulk thickness of the pull tab shall be .045 inches plus or minus .003 inches.~~

~~(ii) Multiple opening tabs. The overall bulk thickness of the pull tab shall be .026 inches plus or minus .002 inches.~~

~~(b) Nonvendable pull tabs. Defined as pull tabs that cannot be sold out of mechanical pull tab dispensing devices approved for use in this state by the Washington state gambling commission. Nonvendable pull tabs may be dispensed from fishbowls, receptacles, packing boxes or spindles. Manufacturers may use any thickness, provided they comply with all other rules of the commission.~~

~~(c) All pull tabs within a single pull tab series shall be of the same thickness.~~

~~(8) Length and width.~~

~~(a) Vendable pull tabs.~~

~~(i) Single opening and double sided tabs shall be 1 7/8 inches x 1 inch plus or minus 1/8 inch.~~

~~(ii) Multiple opening tabs shall be [3 1/2] [3 2] inches by 1 7/8 inches plus or minus 1 inch.~~

~~(b) Nonvendable pull tabs—manufacturers may construct nonvendable pull tabs in any size provided the pull tab complies with all other rules of the commission.~~

~~(c) All pull tabs within a single pull tab series shall be uniform in length or width and not vary by more than 3/64 inch, provided that in no case shall winning pull tabs be identifiable by visible variation in dimension.~~

~~(9) All pull tabs will be constructed to insure that, when offered for sale to the public, the pull tab is virtually opaque and free of security defects wherein winning pull tabs cannot be determined prior to being opened through the use of high intensity lights, pecking, or any other method.~~

~~(10)) The tab may contain information to show the consumer how to open the pull tab or remove the latex to determine the symbols or numbers.~~

~~(5) No series numbers used on a series shall be repeated on that same manufacturer's form number within a three-year period.~~

~~(6) All pull tabs manufactured for use in the state of Washington after January 1, 1992, shall utilize a secondary verification code to prevent counterfeiting on tabs that award prizes greater than twenty dollars. Such codes shall be approved by the director prior to use within the state. Punchboards are exempt from the secondary verification code requirements.~~

~~(7) Each manufacturer shall establish ((his)) its own game protection for each pull tab game or series of games. The game protection shall be a method of identifying winning pull tabs, after they have been purchased and opened, from nonwinning, altered or forged pull tabs. The manufacturer may use special numbers, colors, designs, ink or any combination to establish the game protection. Manufacturers will submit to the gambling commission a letter explaining the game protection and will keep the~~

commission informed on any changes. Spindle-type pull tab series when played in the manner set out in WAC 230-30-070(8) are exempt from this requirement.

AMENDATORY SECTION (Amending WSR 90-21-053, filed 10/15/90)

**WAC 230-30-104 Possession or sale of pull tab series in which winners or location of winners may be determined in advance—Prohibited.** (1) No operator, distributor, or manufacturer, or representative thereof, with knowledge or in circumstances (~~whereunder~~) under which he/or she reasonably should have known, shall possess, display, put out for play, sell, or otherwise furnish to any person any pull tab series or pull tab from any series:

(a) In which the winning tabs have not been distributed and mixed among all other tabs in the series; or

(b) In which the location, or approximate location, of any of the winning tabs can be determined in advance of opening the tabs in any manner or by any device, including but not limited to, any pattern in the manufacture, assembly, or packaging of the tabs by the manufacturer, by any markings on the tabs or container, or by the use of a light; or

(c) Which does not conform in any other respect to the requirements of these rules as to manufacture, assembly, or packaging of pull tabs.

~~((2) No manufacturer or distributor or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pull tabs contains more winners than other portions of the series or that any series of pull tabs may be sold by the operator in a particular manner that would give the operator any advantage in selling more of the pull tabs before having to pay out winners.))~~

AMENDATORY SECTION (Amending WSR 95-23-109, filed 11/22/95, effective 1/1/96)

**WAC 230-30-106 Flare restrictions, standards for flares, and substitute flares made by manufacturers, distributors, or operators.** The following restrictions, standards, and procedures apply to the use of flares and substitute flares:

(1) Except as set forth in subsection ~~((2))~~ (6) of this section, the flare advertising prizes available from the operation of any punchboard, or any series of pull tabs, shall be made by the manufacturer only ~~((—Except as set forth below, flares shall not be altered by any operator or distributor, and shall:~~

~~(a) Be placed as follows:~~

~~(i) Only upon the upper face, or on the top, of any such punchboard; or~~

~~(ii) In plain view and in the vicinity of any pull tab dispensing device or container, provided if the flare is not attached to the dispensing device or container, a numerical or alphabetical reference shall be included directly on the flare and dispensing device or container clearly indicating which flare corresponds to which series; and~~

~~(b) Clearly set out each of the prizes available and the number or symbol which wins prizes; and~~

~~(c) Set out the winning numbers or symbols for prizes of twenty dollars or more in cash, or merchandise worth~~

~~twenty dollars or more at retail, in such a manner that each may be easily and clearly deleted or marked off as each prize is won and awarded. For the purposes of this subsection the retail value of a merchandise prize shall be the amount actually paid by the licensed operator plus 50 percent of that actual cost.)~~ and shall not be altered by any operator or distributor;

(2) ~~(Substitute flares~~

~~(a) Distributors may make and apply substitute flares to punchboards and pull tab series provided that the conditions set forth in (c) of this subsection are satisfied;~~

~~(b) Licensed operators may make and use substitute flares on punchboards and pull tab series which offer merchandise or combination merchandise-cash prizes provided that the conditions set forth in (c) of this subsection are satisfied;~~

~~(c) Use of substitute flares:~~

~~(i) The substitute flare must comply with all the requirements of subsection (1)(a), (b) and (c) of this section;~~

~~(ii) Substitute flares must meet the requirements of WAC 230-30-015;~~

~~(iii) The winning numbers or symbols on the substitute flare shall be selected from the winning numbers or symbols on the flare made by the manufacturer, or from the optional numbers placed on the back of the board by the manufacturer. Provided flares and games which offer merchandise, or combination merchandise/cash prizes, in excess of \$100.00 actual costs, must utilize numbers, not symbols to denote winners. Prizes must be assigned to the winning numbers consecutively starting with the highest value prize being assigned the lowest available winning number; and~~

~~(iv) The substitute flare is stapled to the manufacturer's flare and the manufacturer's flare is defaced so that it is unusable, but the identification and inspection services stamp is readable and visible.) No person shall place or have out in public view more than one flare advertising the prizes available from the operation of any punchboard, or from any series of pull tabs;~~

~~(3) ((Spindle type pull tab series when played in the manner set out in WAC 230-30-070(9) are exempt from this section.)) Standards for flares:~~

~~(a) Flares must clearly set out each of the prizes available and the numbers or symbols that win each prize;~~

~~(b) Set out the winning numbers or symbols for prizes of twenty dollars or more in cash, or merchandise worth twenty dollars or more at retail, in such a manner that each may be easily and clearly deleted or marked off as each prize is won and awarded. For the purposes of this subsection the retail value of a merchandise prize shall be the amount actually paid by the licensed operator plus fifty percent of that actual cost;~~

~~(c) The cost to the player for each punch or pull tab shall be clearly posted on the flare;~~

~~(d) The manufacturer shall clearly set out on the flare the series number assigned to that punchboard or pull tab series by the manufacturer. For pull tab series, this number shall be clearly displayed on the face of the flare. This series number shall not be altered by the distributor or operator;~~

~~(e) The flare shall contain the Washington state identification and inspection services stamp number assigned to the board or series, as required by WAC 230-08-017;~~

(f) For pull tab series, the total number of pull tabs originally in the series shall be clearly disclosed on the face of the flare. Effective July 1, 1997, the following flares shall prominently display the ticket count in one-half inch size lettering on the flare:

(i) Any newly designed flare:

(ii) Any existing but unmanufactured flare for pull tab series with a ticket count over six thousand.

(g) Flares must contain a stamp, seal, or label that identifies its manufacturer.

(4) Additional standards for bonus pull tab flares:

(a) The manufacturer shall develop and use at least twenty-five different versions of flares for each form number of a bonus series. Face sheets shall be utilized in such a manner so as to ensure random distribution during the manufacturing and packing process;

(b) The middle or advance level shall be labeled with the term ADVANCE SECTION with a minimum one-quarter inch size lettering;

(c) The top tier level shall be labeled with the term BONUS SECTION with a minimum one-quarter inch size lettering;

(d) The number of winners which could be awarded in the top tier level shall be clearly noted on the flare with a minimum three-eighths inch size lettering. In addition, the number of winners and the number of advances in each advance level shall be clearly displayed;

(e) All prizes for each advance and bonus level shall be clearly displayed so that only the winners within the possible combinations are shown. Where applicable, the word "OR" shall be used to illustrate the possible combinations in which the bonus prizes can be won; and

(f) The references to prizes shall be displayed above the punches/windows or in the immediate vicinity thereof, not on the punches/windows themselves.

(5) Flares shall be placed as follows:

(a) Only upon the upper face, or on the top of any punchboard; or

(b) In plain view and in the vicinity of any pull tab dispensing device or container. If the flare is not attached to the dispensing device or container, a numerical or alphabetical reference shall be included directly on the flare and dispensing device or container clearly indicating which flare corresponds to which series.

(6) Substitute flares:

(a) A substitute flare may be utilized on punchboards or pull tabs, unless otherwise restricted by commission rules, provided all the requirements of this subsection are met.

(i) Distributors may apply manufacturer-designed substitute flares to punchboards and pull tab series;

(ii) Licensed operators or distributors may make and use substitute flares on punchboards and pull tab series which offer merchandise or combination merchandise-cash prizes.

(iii) The responsibility for ensuring the substitute flare meets the requirements set forth below shall rest with the manufacturer, distributor, or operator who changes the original flare and attaches the substitute flare.

(b) Substitute flare requirements:

(i) All substitute flares must comply with the requirements of subsections (3) and (4) of this section;

(ii) All substitute flares shall have the Washington state identification and inspection services stamp number and

series number assigned to the punchboard or pull tab series permanently recorded in ink on the face of the substitute flare;

(iii) The original manufacturer's flare shall be permanently defaced so it is unusable and the substitute flare shall be attached to the original manufacturer's flare so that the original Washington state identification and inspection services stamp and series number can be accessed for inspection;

(iv) For flares converted from cash prizes to combination merchandise-cash prizes, at least fifty percent of the total value of prizes offered shall be merchandise; and

(v) The winning numbers or symbols on the substitute flare shall be selected from the winning numbers or symbols on the flare made by the manufacturer, or from the optional numbers placed on the back of the board by the manufacturer: *Provided*, That flares and games that offer merchandise, or combination merchandise-cash prizes, in excess of one hundred dollars actual cost per prize, must utilize numbers, not symbols, to denote winners. Prizes must be assigned to the winning numbers consecutively, starting with the highest value prize being assigned the lowest available winning number.

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 5, filed 12/19/73)

WAC 230-30-210 (~~Buying from and selling to only licensees required.~~) Sales restrictions. (1) No manufacturer, distributor or distributor's representative, shall sell or otherwise make available to any person any punchboards, pull tabs, pull tab dispensing devices or related equipment in this state unless it has first determined that such person has a valid license issued by the commission to sell or otherwise distribute such equipment within this state, or to operate such activity on a particular premise within this state.

(2) No operator, distributor or distributor's representative, shall purchase or otherwise obtain from any person any punchboard, pull tab, device for the dispensing of pull tabs or related equipment in this state until it has first determined that the person selling or otherwise offering such equipment has a valid license issued by the commission to sell the equipment in this state or has been registered with the commission as required.

(3) No operator shall put out for play and no distributor shall sell or otherwise furnish, any punchboard or series of pull tabs unless the manufacturer of punchboards or series of pull tabs has been licensed by the commission.

(4) No manufacturer or distributor or representative thereof shall use as a sales promotion any statement, demonstration, or implication that any certain portion of a series of pull tabs contains more winners than other portions of the series or that any series of pull tabs may be sold by the operator in a particular manner that would give the operator any advantage in selling more of the pull tabs before having to pay out winners.

(5) Manufacturers shall not offer for sale in Washington any punchboard or pull tab series in which the winning

punches or pull tabs are not randomly distributed and mixed among all other punches or pull tabs in that board or series.

(6) This rule shall not prohibit licensed distributors from selling to Indian tribes operating Class II activities which are legal under federal law.

AMENDATORY SECTION (Amending Order 238, filed 4/21/93, effective 7/1/93)

**WAC 230-30-300 Recall of defective punchboards, pull tabs or pull tab dispensing devices.** (1) Upon a determination that punchboards, pull tabs or pull tab dispensing devices for sale in Washington do not meet commission standards, the director may order all defective products and all similarly constructed or printed products be recalled by the manufacturer(s).

(2) If the director orders such a recall, the manufacturer of the product shall be immediately notified regarding the items to be recalled, reason for the recall, effective date of the recall, and any other specific requirements. ~~((The))~~ Verbal notification shall be followed ~~((with a))~~ by written notification. Immediately upon ~~((the))~~ oral notification, manufacturers shall cease ~~((sale))~~ shipping affected product in the state and initiate actions to ensure complete compliance with the recall. Manufacturers ~~((with))~~ shall notify all distributors within ~~((72))~~ seventy-two hours of the items recalled, effective date of recall, and arrange for the prompt return of the defective items.

(3) Distributors, ~~((when))~~ once notified ~~((in writing))~~ of the recall by either the manufacturer or the commission ~~((of the recall))~~, shall immediately stop sales and/or delivery of the product. ~~((3))~~ The commission shall notify, in writing, each licensed distributor of gambling paraphernalia of the recall, effective dates thereof, the products involved, and of any special instructions if applicable.

(4) The commission shall ~~((then))~~ notify, in writing, each licensed operator who has received the product as to the items recalled, effective date and special instructions, if applicable. Operators shall not utilize any defective punchboards, pull tabs or pull tab dispensing devices after receiving written notification from the commission.

~~((4))~~ (5) Prior to any reintroduction in the state of any recalled or similar item, the manufacturer must first submit the revised or reworked item to ~~((the))~~ commission staff for review, evaluation and approval. The manufacturer will be notified in writing, of the approval or disapproval ~~((and))~~. A copy of the approving letter ~~((with))~~ shall be sent by the manufacturer to the distributor with the next five shipments of the reworked item.

~~((5))~~ (6) Manufacturers shall reimburse distributors the actual cost paid by the distributor for each punchboard, pull tab series or pull tab dispensing device recalled by order of the director. Manufacturers of recalled punchboards, pull tab series or pull tab dispensing devices shall compensate distributors for time and expenses incurred during a recall. Such compensation shall not exceed fifty cents per punchboard or pull tab series actually returned by the distributor to the manufacturer or ~~((7))~~ twenty-five dollars per pull tab dispensing device.

PROPOSED

**WSR 97-09-079**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed April 22, 1997, 11:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-14-117 on July 3, 1996, WSR 96-24-034 on November 26, 1996, WSR 97-05-047 on February 18, 1997, and WSR 97-06-101 on March 5, 1997.

Title of Rule: Chapters 296-62, 296-65, and 296-99 WAC, Asbestos; 1,3-Butadiene; grain handling facilities, and respiratory protection.

Purpose:

**ASBESTOS**

**Chapter 296-62 WAC, General occupational health standards**, federal-initiated proposed amendments relating to asbestos as published in the Federal Register Volume 61, Number 165, dated August 23, 1996, are made to be at-least-as-effective-as the federal standard. Some of these proposed changes will establish additional compliance requirements. State-initiated proposed amendments are made to correct errors and clarify existing requirements and will not establish additional compliance requirements.

**WAC 296-62-07711 Regulated areas**, state-initiated proposed amendments are made to:

- Add clarifying language relating to the use of respirators in regulated areas.

**WAC 296-62-07712 Requirements for asbestos activities in construction and shipyard work**, state-initiated proposed amendments are made to:

- Correct a WAC reference.

**WAC 296-62-07715 Respiratory protection**, federal-initiated proposed amendments are made to:

- Clarify the requirement that employers must inform employees that they may demand the use of a powered air purifying respirator (PAPR) in lieu of a negative pressure respirator.

State-initiated proposed amendments are made to:

- Clarify when respirators must be used during construction activities.

**WAC 296-62-07717 Protective work clothing and equipment**, state-initiated proposed amendments are made to:

- Correct a WAC reference.

**WAC 296-62-07721 Communication of hazards to employees**, federal-initiated proposed amendments are made to:

- Add a new requirement that employers must ensure that non-English speaking employees understand warning signs and labels.

State-initiated proposed amendments are made to:

- Correct two WAC references.
- Clarify the type of bulk samples that must be analyzed for asbestos.

**WAC 296-62-07725 Medical surveillance**, federal-initiated proposed amendments are made to:

- Clarify the amount of time an employee must be engaged in asbestos work before medical surveillance is required.

**WAC 296-62-07728 Competent person**, state-initiated proposed amendments are made to:

- Clarify the requirements of a competent person where employees are engaged in Class I or II asbestos work.

**WAC 296-62-07761 Nonasbestiform tremolite, anthophyllite, and actinolite**, state-initiated proposed amendments are made to:

- Repeal this section and the regulations on nonfibrous asbestos since they are not a significant health hazard. (OSHA no longer regulates this type of asbestos.)

**Chapter 296-65 WAC, Safety standards for asbestos removal and encapsulation**, the following state-initiated proposed amendments are made to correct errors and clarify existing requirements and will not establish additional compliance requirements.

**WAC 296-65-001 Purpose and scope**, state-initiated proposed amendments are made to:

- Clarify that this standard applies only to materials containing more than 1% asbestos.

**WAC 296-65-030 Methods of compliance**, state-initiated proposed amendments are made to:

- Clarify when certification of supervisors or employees is required when they are doing Class I, II, III, or IV asbestos work.

**RESPIRATORY PROTECTION**

**Chapter 296-62 WAC, General occupational health standards. WAC 296-62-07113 Selection of respirators**, state-initiated proposed amendments are made to:

- Correct errors in Tables 3, 4, and 5. The errors included misspellings, word omissions, and column entry misplacement.

**1,3-BUTADIENE**

**Chapter 296-62 WAC, General occupational health standards**, federal-initiated proposed amendments relating to 1,3-Butadiene as published in Federal Register Volume 61, Number 214, dated November 4, 1996, are made to be identical to the federal standard. In addition, the department is also proposing state-initiated amendments to correct typographical and other minor errors.

**WAC 296-62-07460 1,3-Butadiene**, federal-initiated proposed amendments are made to:

- Add this new section.
- Set a permissible exposure limit (PEL).
- Require air monitoring of workplaces where the chemical is used.
- Require training and medical monitoring of exposed employees.
- Require the use of respirators when employee exposures exceed the PEL.

**WAC 296-62-075 Air contaminants**, state-initiated proposed amendments are made to:

- Delete a sentence in WAC 296-62-075(3) relating to transitional limits because these limits expired in 1992 and are no longer applicable. (The transitional limits table is proposed to be deleted as indicated in WAC 296-62-07515 below.)

**WAC 296-62-07501 Airborne contaminants**, state-initiated proposed amendments are made to:

- Correct typographical errors.

PROPOSED

- Delete a reference to Table 2 which is proposed to be deleted.

**WAC 296-62-07510 Total particulates**, state-initiated proposed amendments are made to:

- Remove references to Table 2 which is proposed to be deleted.

**WAC 296-62-07515 Control of chemical agents**, federal-initiated proposed amendments are made to:

- Lower the permissible exposure limit of 1,3-Butadiene from 10 part per million (ppm) to 1 ppm.

State-initiated proposed amendments are made to correct errors in Table 1: Limits For Air Contaminants as indicated below:

- Biphenyl - correct the spelling of the word "diphenyl."
- Carbon dioxide - change 30,00 ppm, to 30,000, in the STEL column to correct a typographical error.
- Chromic acid and chromates - move the PEL (0.1 mg/m<sup>3</sup>) from the ceiling column to the TWA column.
- Formaldehyde - correct the PEL in the TWA column from 1 ppm to 0.75 ppm to be identical to the PEL listed in WAC 296-62-07540 (which is the specific regulation for formaldehyde).
- Mercury (aryl and inorganic) - move the PEL (0.1 ppm) from the ceiling column to the TWA column.
- Methylene bisphenyl isocyanate (MDI) - delete a duplicate listing for this chemical.
- Nitrotrichloromethane - correct the spelling of this chemical to "Nitrotrichloromethane."
- Vinyl cyanid - correct the spelling of this chemical to "Vinyl cyanide."
- Correct typographical errors in Notes g and h at the end of Table 1.
- Delete Table 2 - Transitional Limits, which expired on December 31, 1992.

#### GRAIN HANDLING FACILITIES

**Chapter 296-99 WAC, Safety standards for grain handling facilities**, federal-initiated proposed amendments relating to grain handling facilities, as published in Federal Register Volume 61, Number 47, dated March 8, 1996, are made to be at-least-as-effective-as the federal standard. Some of these federal-initiated amendments will establish additional compliance requirements.

State-initiated proposed amendments are made to rewrite the standard in a clear rule-writing style and will not establish additional compliance requirements. The sole purpose of the clear rule-writing proposal is to produce a clearly written grain handling standard that is easy to use. The standard requirements or level of compliance have not changed and no new requirements are being proposed.

**WAC 296-99-010 Scope**, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Change the word "section" to "chapter."
- State-initiated proposed amendments are made to:
- Change the section title from "Scope" to "What safety hazards does this chapter require the employer to control?"
  - Rewrite the section for clarity.

**WAC 296-99-015 Application**, state-initiated proposed amendments are made to:

- Change the section title from "Application" to "What grain-handling operations does this chapter cover?"
- Rewrite the section for clarity.

**WAC 296-99-020 Definitions**, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Add the definition of "flat storage structure." State-initiated proposed amendments are made to:
- Change the section title from "Definitions" to "What definitions apply to this chapter?"
- Rewrite the section for clarity.
- Add the definition of "Grain" for clarification.
- Delete definition numbering as required by the state code reviser's office.

**WAC 296-99-025 Emergency action plan**, state-initiated proposed amendments are made to:

- Change the section title from "Emergency Action Plan" to "What are the requirements for an emergency action plan?"
- Rewrite the section for clarity.

**WAC 296-99-030 Training**, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Add a requirement to the training section that addresses engulfment and mechanical hazards and how to avoid them. This is an existing requirement in WAC 296-24-040 (1)(vii).

State-initiated proposed amendments are made to:

- Change the section title from "Training" to "What training must an employer provide for employees?"
- Rewrite the section for clarity.
- Identify fall hazard protection as a training need for clarification.

**WAC 296-99-035 Hot work permit**, state-initiated proposed amendments are made to:

- Rewrite the section for clarity.
- Change the section title from "Hot work permit" to "When must an employer issue a hot work permit?"

**WAC 296-99 040 Entry into bins, silos, and tanks**, federal-initiated proposed amendments in this section will establish additional compliance requirements and are made to:

- Clarify that atmospheric precautions are applicable to flat storage structures.
- Prohibit the practice of "walking down grain."
- Clarify personal protection requirements for employees walking on grain.

State-initiated proposed amendments are made to:

- Change the section title from "Entry into bins, silos, and tanks" to "What practices must an employer follow for entry into grain storage structures?"
- Rewrite the section for clarity.
- Delete current atmospheric hazard requirements and add a reference to chapter 296-62 WAC, General occupational health standards, Part M, WAC 296-62-145 Confined space.

**WAC 296-99-045 Contractors**, state-initiated proposed amendments are made to:

- Change the section title from "Contractors" to "What information must an employer provide to contractors?"
- Rewrite the section for clarity.

**WAC 296-99-050 Housekeeping**, state-initiated proposed amendments are made to:

- Change the section title from "Housekeeping" to "What elements must an employer include in the housekeeping program?"
- Rewrite the section for clarity.

**WAC 296-99-055 Grate openings**, state-initiated proposed amendments are made to:

- Change the section title from "Grate openings" to "What is the maximum allowable grate opening size?"
- Rewrite the section for clarity.

**WAC 296-99-060 Filter collectors**, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Delete reference to an expired date. State-initiated proposed amendments are made to:
- Change the section title from "Filter collectors" to "How must filter collectors be installed?"
- Rewrite the section for clarity.

**WAC 296-99-065 Preventive maintenance**, state-initiated proposed amendments are made to:

- Change the section title from "Preventive maintenance" to "What preventative maintenance program must an employer implement?"
- Rewrite the section for clarity.
- Clarify (1)(b) by changing the words ". . . or as determined necessary by prior operating records" to "or more often when needed, such as when operating records indicate that a more stringent schedule is necessary." The amended sentence reads, "Performing lubrication and other maintenance according to manufacturers' recommendations or more often when needed, such as when operating records indicate that a more stringent schedule is necessary."

**WAC 296-99-070 Grain stream processing equipment**, state-initiated proposed amendments are made to:

- Change the section title from "Grain stream processing equipment" to "How must grain stream processing equipment be equipped?"
- Rewrite the section for clarity.

**WAC 296-99-075 Emergency escape**, state-initiated proposed amendments are made to:

- Change the section title from "Emergency escape" to "How many means of emergency escape must an employer provide?"
- Rewrite the section for clarity.

**WAC 296-99-080 Continuous-flow bulk raw grain dryers**, federal-initiated proposed amendments in this section will not establish additional compliance requirements and are made to:

- Delete reference to an expired date. State-initiated proposed amendments are made to:
- Change the section title from "Continuous-flow bulk raw grain dryers" to "How must continuous-flow bulk raw grain dryers be equipped and installed?"
- Rewrite the section for clarity.

**WAC 296-99-085 Inside bucket elevators**, federal-initiated proposed amendments in this section are made to:

- Delete references to expired dates. State-initiated proposed amendments are made to:

- Change the section title from "Inside bucket elevators" to "What special requirements apply to inside bucket elevators?"
- Rewrite the section for clarity.

**WAC 296-99-090 Appendix A, grain handling facilities**, state-initiated proposed amendments are made to:

- Delete this appendix because the appendix repeats rather than clarifies requirements.

**WAC 296-99-093 Appendix B, grain handling facilities**, state-initiated proposed amendments are made to:

- Delete this appendix because the information referenced is available elsewhere.

**WAC 296-99-095 Appendix C, grain handling facilities**, state-initiated proposed amendments are made to:

- Delete the appendix because the information is outdated. Statutory Authority for Adoption: Chapter 49.17 RCW. Statute Being Implemented: RCW 49.17.040, [49.17].050, [49.17].060.

Summary: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, 7273 Linderson Way, Tumwater, WA, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, 7273 Linderson Way, Tumwater, WA, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

Rule is necessary because of federal law, Federal Register Volume 61, Number 47, dated March 8, 1996; Federal Register Volume 61, Number 165, dated August 23, 1996; and Federal Register Volume 61, Number 214, dated November 4, 1996.

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small business economic impact statements are not required because the rules are being proposed solely to comply with federal regulations (RCW 19.85.061) or to correct information that is housekeeping in nature (RCW 34.05.320 (1)(k)).

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant rule-making criteria does not apply to these rule amendments because they meet the exempt criteria outlined in RCW 34.05.328 (5)(b)(iii) and (iv). Significant rule-making criteria does not apply when adopting federal statutes or regulations without material change, when amending interpretive rules, or when adopting rules to correct information that is housekeeping in nature (typographical errors, address/name changes, or clarification of rule language without changing its effect).

Hearing Location: Department of Labor and Industries Building, Auditorium, 7273 Linderson Way, Tumwater, WA, on June 4, 1997, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Linda Dausener by May 21, 1997, (360) 902-5516.

Submit Written Comments to: Tracy Spencer, Standards Manager, Division of Consultation and Compliance, P.O. Box 44620, Olympia, WA 98507-4620, by June 11, 1997. In addition to written comments, the department will accept comments submitted to FAX (360) 902-5529. Comments submitted by FAX must be ten pages or less.

Date of Intended Adoption: September 5, 1997.  
 April 22, 1997  
 Gary Moore  
 Director

**AMENDATORY SECTION** (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-62-07113 Selection of respirators.** (1) General considerations. Proper selection of respirators shall be made in accordance with the classification, capabilities, and limitations listed in tables I through IV of this section. Additional guidance may be obtained by referring to American National Standard Practices for Respiratory Protection Z88.2 - 1980.

(2) Respirator protection factor (PF). Respirators shall be selected according to the characteristics of the hazards involved, the capabilities and limitations of the respirators, and the ability of each respirator wearer to obtain a satisfactory fit with a respirator. Taking into account the capabilities and limitations of respirators and the results of respirator-fitting tests, a table of respirator protection factors has been prepared (see Table V). A respirator protection factor is a measure of the degree of protection provided by a respirator to a wearer. Multiplying either (a) the permissible time-weighted average concentration or the permissible ceiling concentration, whichever is applicable, for a toxic substance, or (b) the maximum permissible airborne concentration for a radionuclide by a protection factor assigned to a respirator gives the maximum concentration of the hazardous substance in which the respirator can be used. Limitations of filters, cartridges, and canisters also shall be considered (see Table V).

(3) Respirator-fitting tests. A qualitative or quantitative respirator-fitting test shall be used to determine the ability of each individual respirator wearer to obtain a satisfactory fit with a negative-pressure respirator. The results of qualitative or quantitative respirator fitting-tests shall be used to select specific types, makes, and models of negative-pressure respirators for use by individual respirator wearers. A respirator-fitting test shall be carried out for each wearer of a negative-pressure respirator equipped with a facepiece. Respirator-fitting tests shall not be required for positive-pressure respirators or for mouthpiece respirators.

(a) Qualitative respirator-fitting test - A person wearing a respirator is exposed to an irritant smoke, an odorous vapor, or other suitable test agent. An air-purifying respirator must be equipped with an air-purifying element(s) which effectively removes the test agent from inspired air. If the respirator wearer is unable to detect penetration of the test agent into the respirator, the respirator wearer has achieved a satisfactory fit with the respirator.

(b) Quantitative respirator-fitting test - A person wears a respirator in a test atmosphere containing a test agent in the form of an aerosol, vapor, or gas. Instrumentation, which samples the test atmosphere and the air inside the respiratory-inlet covering of the respirator, is used to measure quantitatively the penetration of the test agent into the respiratory-inlet covering.

(c) When carrying out a qualitative or quantitative respirator-fitting test, the respirator wearer shall carry out a series of exercises which simulate work movements.

(d) When carrying out respirator-fitting tests, it shall be an acceptable procedure to make the following modifications to respirators provided that such modifications do not affect the seal of the respirators to wearers.

(i) When carrying out a qualitative or quantitative respirator-fitting test which uses an aerosol as the test agent, it shall be acceptable procedure to equip an air-purifying respirator with a high-efficiency filter.

(ii) When carrying out a qualitative or quantitative respirator-fitting test which uses a vapor or gas as the test agent, it shall be acceptable procedure to equip an air-purifying respirator with an appropriate cartridge or canister which removes the vapor or gas from air.

(iii) When carrying out a quantitative respirator-fitting test, it shall be acceptable procedure to attach a sampling probe to the respirator which is connected by flexible tubing to an instrument which measures the penetration of the test agent into the respirator.

(e) If a qualitative respirator-fitting test has been used in respirator selection, a person shall be allowed to use only the specific make(s) and model(s) of respirator(s) for which the person obtained a satisfactory fit, and the respirator protection factor listed under "qualitative test" in Table V shall apply. Under no circumstances shall a person be allowed to use any respirator for which the results of the qualitative respirator fitting test indicate that the person is unable to obtain a satisfactory fit.

(f) If a quantitative respirator-fitting test has been used in selecting a respirator, the test results shall be used to assign a respirator protection factor to each person for each specific make and model of respirator tested. The assigned respirator protection factor shall be applied when the person wears the specific respirator in a hazardous atmosphere, but it shall not exceed the respirator protection factor listed under "quantitative test" in table V for the particular type of respirator.

(4) Respirator-fitting test records. Records of respirator-fitting tests shall be kept for at least the duration of employment. These records shall include the following information:

- (a) Type of respirator-fitting test used;
- (b) Specific make and model of respirator tested;
- (c) Name of person tested;
- (d) Name of test operator;
- (e) Date of test;
- (f) Results of respirator-fitting tests;
- (i) Success or failure of person to obtain satisfactory fit if a qualitative respirator-fitting test was carried out.
- (ii) Respirator protection factor based upon test results if a quantitative respirator-fitting test was carried out.
- (5) Face dimensions and facepiece sizes. The wide range of face dimensions may require more than a single size of respirator facepiece to provide a proper fit to all respirator users. Therefore, respirator facepieces of more than one size should be available in any respirator-selection program involving respirators equipped with facepieces.

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**Table 1**  
**Classification of Respiratory Hazards According to Their Biological Effect**

Oxygen Deficiency	Gas and Vapor Contaminants	Particulate Contaminants (Dust, fog, fume, mist, smoke, and spray)
<p>Minimum legal requirements: 19.5% by volume for respirable air at-sea-level conditions. (See Note 1.)</p> <p>Occurrence: Confined or unventilated cellars, wells, mines, ship holds, tanks, burning buildings, and enclosures containing inert atmospheres.</p> <p>Atmospheric oxygen content (percent by volume) versus expected conditions:</p> <p>20.9%: Oxygen content of normal air at sea-level conditions.</p> <p>Oxygen Volume Percent at Sea Level      Physiological Effects</p> <p>16%-12%    Loss of peripheral vision, increased breathing volume, accelerated heartbeat, impaired attention and thinking, impaired coordination.</p> <p>12%-10%    Very faulty judgment, very poor muscular coordination, muscular exertion causes fatigue that may cause permanent heart damage, intermittent respiration.</p> <p>10%-6%     Nausea, vomiting, inability to perform vigorous movement, unconsciousness followed by death.</p> <p>Less than 6%    Spasmodic breathing, convulsive movements, death in minutes.</p>	<p>Asphyxiants: Interfere with utilization of oxygen in the body.</p> <p>Simple asphyxiants: Physiologically inert substances that dilute oxygen in the air (for example: nitrogen, hydrogen, helium, methane). See Oxygen Deficiency, Column 1.</p> <p>Chemical asphyxiants: Low concentrations interfere with supply or utilization of oxygen in the body (for example: carbon monoxide, hydrogen cyanide, cyanogen, and nitriles).</p> <p>Irritants: Corrosive in action. May cause irritation and inflammation of parts of the respiratory system (also skin and eyes) and pulmonary edema (for example: ammonia hydrogen chloride, formaldehyde, sulfur dioxide, chlorine, ozone, nitrogen dioxide, phosgene, and arsenic trichloride).</p> <p>Anesthetics: Causes loss of feeling and sensation with unconsciousness and death possible (for example: nitrous oxide, hydrocarbons and ethers). Some anesthetics injure body organs (for example: carbon tetrachloride (liver and kidneys), chloroform (liver and heart), benzene (bone marrow), and carbon disulfide (nervous system)).</p> <p>Sensitizers: Cause increased probability of physiological reactions (for example: isocyanates, epoxy resin systems).</p> <p>Systemic poisons: Damage organs and systems in the body (for example: mercury (nervous system and various organs), phosphorus (bone), hydrogen sulfide (respiratory paralysis), and arsine (red blood cells and liver)).</p> <p>Carcinogens: produce cancer in some individuals after a latent period (for example: vinyl chloride, benzene).</p>	<p>Relatively inert: May cause discomfort and minor irritation, but generally without injury at reasonable concentrations (for example: marble, gypsum).</p> <p>Pulmonary-fibrosis-producing: produce nodulation and fibrosis in the lung, possibly leading to complications (for example: quartz, asbestos).</p> <p>Carcinogens: Produce cancer in some individuals after latent period (for example: asbestos, chromates, radioactive particulates).</p> <p>Chemical irritants: Produce irritation, inflammation, and ulceration in the upper respiratory tract (for example: acidic mists, alkalies).</p> <p>Systemic poisons: Produce pathologic reactions in various systems of the body (for example: lead, manganese, cadmium).</p> <p>Allergy-producing: Produce reactions such as itching, sneezing, and asthmas (for example: pollens, spices, and animal fur).</p> <p>Febrile-reaction-producing: Produce chills followed by fever (for example: fumes of zinc and copper).</p>

**Combination of Gas, Vapor, and Particulate Contaminants**

Combinations of contaminants may occur simultaneously in the atmosphere. Contaminants may be entirely different substances (dusts and gases from blasting) or the particulate and vapor forms of the same substance. Synergistic effects (joint action of two or more agents that results in an effect which is greater than the sum of their individual effects) may occur. Such effects may require extraordinary protective measures.

NOTE 1: See definition in WAC 296-62-07105 for "oxygen deficiency - not immediately dangerous to life or health" and "oxygen deficiency - immediately dangerous to life or health."

**Table 2**  
**Classification of Respiratory Hazards According to Their Properties Which Influence Respirator Selection**

Gas and Vapor Contaminants	Particulate Contaminants
<p>Inert: Substances that do not react with other substances under most conditions, but create a respiratory hazard by displacing air and</p>	<p>Particles are produced by mechanical means by disintegration processes such as grinding, crushing, drilling, blasting, and spraying; or by physio-</p>

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producing oxygen deficiency (for example: helium, neon, argon).

**Acidic:** Substances that are acids or that react with water to produce an acid. In water, they produce positively charged hydrogen ions (H<sup>+</sup>) and a pH of less than 7. They taste sour, and many are corrosive to tissues (for example: hydrogen chloride, sulfur dioxide, fluorine, nitrogen dioxide, acetic acid, carbon dioxide, hydrogen sulfide, and hydrogen cyanide).

**Alkaline:** Substances that are alkalis or that react with water to produce an alkali. In water, they result in the production of negatively charged hydroxyl ions (OH<sup>-</sup>) and a pH greater than 7. They taste bitter, and many are corrosive to tissues (for example: ammonia, amines, phosphine, arsine, and stibine).

**Organic:** The components of carbon. Examples are saturated hydrocarbons (methane, ethane, butane) unsaturated hydrocarbons (ethylene, acetylene) alcohols (methyl ether, ethyl ether) aldehydes (formaldehyde), ketones (methyl ketone), organic acids (formic acid, acetic acid), halides (chloroform, carbon tetrachloride), amides (formamide, acetamide), nitriles (acetonitrile), isocyanates (toluene diisocyanate), amines (methylamine), epoxies (epoxyethane, propylene oxide), and aromatics (benzene, toluene, xylene).

**Organometallic:** Compounds in which metals are chemically bonded to organic groups (for example: ethyl silicate, tetraethyl lead, and organic phosphate).

**Hydrides:** Compounds in which hydrogen is chemically bonded to metals and certain other elements (for example: diborane and tetraborane).

chemical reactions such as combustion, vaporization, distillation, sublimation, calcination, and condensation. Particles are classified as follows:

**Dust:** A solid, mechanically produced particle with sizes varying from submicroscopic to visible or macroscopic.

**Spray:** A liquid, mechanically produced particle with sizes generally in the visible or macroscopic range.

**Fume:** A solid condensation particle of extremely small particle size, generally less than one micrometer in diameter.

**Mist:** A liquid condensation particle with sizes ranging from submicroscopic to visible or macroscopic.

**Fog:** A mist of sufficient concentration to perceptibly obscure vision.

**Smoke:** A system which includes the products of combustion, pyrolysis, or chemical reaction of substances in the form of visible and invisible solid and liquid particles and gaseous products in air. Smoke is usually of sufficient concentration to perceptibly obscure vision.

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**Table 3  
Classification and Description of Respirators by Mode of Operation**

<b>((Air)) Atmosphere-Supplying Respirators</b>		<b>Air-Purifying Respirators</b>	
<p>A respirable atmosphere independent of the ambient air is supplied to the wearer.</p> <p><b>Self-Contained Breathing Apparatus (SCBA)</b></p> <p>A supply of air, oxygen, or oxygen-generated material is carried by the wearer. Normally equipped with full facepiece, but may be equipped with a quarter-mask facepiece, half-mask facepiece, helmet, hood or mouthpiece and nose clamp.</p> <p>(1) Closed-Circuit SCBA (oxygen only, negative pressure* or positive pressure<sup>b</sup>).</p> <p>(a) Compressed liquid oxygen type. Equipped with a facepiece or mouth-piece and nose clamp. High-pressure oxygen from a gas cylinder passes through a high-pressure reducing valve, and in some designs, through a low-pressure admission valve to a breathing bag or container. Liquid oxygen is converted to low-pressure gaseous oxygen and delivered to the breathing bag. The wearer inhales from the bag through a corrugated tube connected to a mouthpiece or facepiece and a one-way check valve. Exhaled air passes through another check valve and tube into a container of carbon-dioxide removing chemical and reenters the breathing bag. Make-up oxygen</p>		<p>Ambient air, prior to being inhaled, is passed through a filter, cartridge, or canister which removes particles, vapors, gases, or a combination of these contaminants. The breathing action of the wearer operates the nonpowered type of respirator. The powered type contains a blower-stationary or carried by the wearer - which passes ambient air through an air-purifying component and then supplies purified air to the respirator-inlet covering. The nonpowered type is equipped with a facepiece or mouth-piece and nose clamp. The powered type is equipped with a facepiece, helmet, hood, or suit.</p> <p><b>Vapor-and-Gas-Removing Respirators</b></p> <p>Equipped with cartridge(s) or canister(s) to remove a single vapor or gas (for example: chlorine gas), a single class of vapors or gases (for example: organic vapors), or a combination of two or more classes of vapors or gases (for example: organic vapors and acidic gases) from air.</p> <p><b>Particulate-Removing Respirators</b></p> <p>Equipped with filter(s) to remove a single type of particulate matter (for example: dust) or a combination of two or more types of particulate matter (for example: dust and fume) from air. Filter may be a replaceable part or a permanent part of the respirator. Filter may be of the single-use or the reusable type.</p> <p><b>Combination Particulate-and Vapor-and Gas-Removing Respirators</b></p> <p>Equipped with cartridge(s) or canister(s) to remove particulate matter, vapors and gases from air. The filter may be a permanent part or a replaceable part of a cartridge or canister.</p>	
<p><b>Supplied-Air Respirators</b></p> <p>(1) Hose Mask</p> <p>Equipped with a facepiece, breathing tube, rugged safety harness, and large-diameter heavy-duty non-kinking air-supply hose. The breathing tube and air-supply hose are securely attached to the harness. The facepiece is equipped with an exhalation valve. The harness has provision for attaching a safety line.</p> <p>(a) Hose mask with blower. Air is supplied by a motor-driven or hand-operated blower. The wearer can continue to inhale through the hose if the blower fails. Up to 300 feet (91 meters) of hose length is permissible.</p> <p>(b) Hose mask without blower. The wearer provides motivating force to pull air through the hose. The hose inlet is anchored and fitted with a funnel or like object covered with a fine mesh screen to prevent entrance of coarse particulate matter. Up to 75</p>			

enters the bag continuously or as the bag deflates sufficiently to actuate an admission valve. A pressure-relief system is provided, and a manual bypass and saliva trap may be provided depending upon the design.

(b) Oxygen-generating type. Equipped with a facepiece or mouth-piece and nose clamp. Water vapor in the exhaled breath reacts with chemical in the canister to release oxygen to the breathing bag. The wearer inhales from the bag through a corrugated tube and one-way check valve at the facepiece.

Exhaled air passes through a second check valve/breathing tube assembly into the canister. The oxygen-release rate is governed by the volume of exhaled air. Carbon dioxide in the exhaled breath is removed by the canister fill.

(2) Open-Circuit (SCBA) (compressed air, compressed oxygen, liquid air, liquid oxygen). A bypass system is provided in case of regulator failure except on escape-type units.

(a) Demand-type.<sup>c</sup> Equipped with a facepiece or mouthpiece and nose clamp. The demand valve permits oxygen or air flow only during inhalation. Exhaled breath passes to ambient atmosphere through a valve(s) in the facepiece.

(b) Pressure-demand type.<sup>d</sup> Equipped with a facepiece only. Positive pressure is maintained in the facepiece. The apparatus may have provision for the wearer to select the demand or pressure-demand mode of operation, in which case the demand mode should be used only when donning or removing the apparatus.

#### Combination Air-Line Respirators with Auxiliary Self-Contained Air Supply

Includes an air-line respirator with an auxiliary self-contained air supply. To escape from a hazardous atmosphere in the event the primary air supply falls to operate, the wearer switches to the auxiliary self-contained air supply. Devices approved for both entry into and escape from dangerous atmospheres have a low-pressure warning alarm and contain at least a 15-minute self-contained air supply.

#### Combination Atmosphere-Supplying and Air-Purifying Respirators

Provide the wearer with the option of using either of two different modes of operation: (1) an atmosphere-supplying respirator with an auxiliary air-purifying attachment which provides protection in the event the air supply fails or (2) an air-purifying respirator with an auxiliary self-contained air supply which is used when the atmosphere may exceed safe conditions for use of an air-purifying respirator.

feet (23 meters) of hose length is permissible.

(2) Air-Line Respirator  
Respirable air is supplied through a small-diameter hose from a compressor or compressed-air cylinder(s). The hose is attached to the wearer by a belt or other suitable means and can be detached rapidly in an emergency. A flow-control valve or orifice is provided to govern the rate of air flow to the wearer. Exhaled air passes to the ambient atmosphere through a valve(s) or opening(s) in the enclosure (facepiece, helmet, hood, or suit). Up to 300 feet (91 meters) of hose length is permissible.

(a) Continuous-flow class. Equipped with a facepiece, hood, helmet, or suit. At least 115 liters (four cubic feet) of air per minute to tight-fitting facepieces and 170 liters (six cubic feet) of air per minute to loose fitting helmets, hoods and suits is required. Air is supplied to a suit through a system of internal tubes to the head, trunk and extremities through valves located in appropriate parts of the suit.

(b) Demand type.<sup>c</sup> Equipped with a facepiece only. The demand valve permits flow of air only during inhalation.

(c) Pressure-demand type.<sup>d</sup> Equipped with a facepiece only. A positive pressure is maintained in the facepiece.

- 
- \* Device produces negative pressure in respiratory-inlet covering during inhalation.
  - † Device produces positive pressure in respiratory-inlet covering during both inhalation and exhalation.
  - ‡ Equipped with a demand valve that is activated on initiation of inhalation and permits the flow of breathing atmosphere to the facepiece. On exhalation, pressure in the facepiece becomes positive and the demand valve is deactivated.
  - § A positive pressure is maintained in the facepiece by a spring-loaded or balanced regulator and exhalation valve.
-

**Table 4**  
**Capabilities and Limitations of Respirators**

**Atmosphere-Supplying Respirators**

**Air-Purifying Respirators**

(See WAC 296-62-07111 for specifications on respirable atmospheres.)

Atmosphere-supplying respirators provide protection against oxygen deficiency and toxic atmospheres. The breathing atmosphere is independent of ambient atmospheric conditions.

General limitations: Except for some air-line suits, no protection is provided against skin irritation by materials such as ammonia and hydrogen chloride, or against sorption of materials such as hydrogen cyanide, tritium, or organic phosphate pesticides through the skin. Facepieces present special problems to individuals required to wear prescription lenses. Use of atmosphere-supplying respirators in atmospheres immediately dangerous to life or health is limited to specific devices under specified conditions (see Table 5.)

**Self-Contained Breathing Apparatus (SCBA)**

**Supplied-Air Respirators**

The wearer carries his own breathing atmosphere.

The respirable air supply is not limited to the quantity the individual can carry, and the devices are lightweight and simple.

Limitations: The period over which the device will provide protection is limited by the amount of air or oxygen in the apparatus, the ambient atmospheric pressure (service life of open-circuit devices is cut in half by a doubling of the atmospheric pressure), and the type of work being performed. Some SCBA devices have a short service life (less than 15 minutes) and are suitable only for escape (self-rescue) from an irreparable atmosphere.

Limitations: Limited to use in atmospheres from which the wearer can escape unharmed without the aid of the respirator.

The wearer is restricted in movement by the hose and must return to a respirable atmosphere by retracing his route of entry. The hose is subject to being served or pinched off.

Chief limitations of SCBA devices are their weight or bulk, or both, limited service life, and the training requirements for their maintenance and safe use.

(1) **Hose Mask.**  
The hose inlet or blower must be located and secured in a respirable atmosphere.

(1) **Closed-Circuit SCBA**  
The closed-circuit operation conserves oxygen and permits longer service life at reduced weight.

(a) **Hose mask with blower.**  
If the blower fails, the unit still provides protection, although a negative pressure exists in the facepiece during inhalation.

The negative-pressure type produces a negative pressure in the respiratory-inlet covering during inhalation, and this may permit inward leakage of contaminants; whereas the positive-pressure type always maintains a positive pressure in the respiratory-inlet covering and is less apt to permit inward leakage of contaminants.

(b) **Hose mask without blower.**  
Maximum hose length may restrict application of device.

(2) **Open Circuit SCBA.**

The demand type produces a negative pressure in the respiratory-inlet covering during inhalation, whereas the pressure-demand type maintains a positive pressure in the respiratory-inlet covering during inhalation and is less apt to permit inward leakage of contaminants.

(2) **Air-Line Respirator (Continuous Flow, Demand and Pressure-Demand Types).**

The demand type produces a negative pressure in the facepiece on inhalation, whereas continuous-flow and pressure-demand types maintain a positive-pressure in the respirator-inlet covering and are less apt to permit inward leakage of contaminants.

Air-line suits may protect against atmospheres that irritate the skin or that may be absorbed through the unbroken skin.

Limitations: Air-line respirators provide no protection if the air supply fails. Some contaminants, such as tritium, may penetrate the

General limitations: Air-purifying respirators do not protect against oxygen-deficient atmospheres nor against skin irritation by, or sorption through the skin of airborne contaminants.

The maximum contaminant concentration against which an air-purifying respirator will protect is determined by the design efficiency and capacity of the cartridge, canister, or filter and the facepiece-to-face seal on the user. For gases and vapors, the maximum concentration for which the air-purifying element is designed is specified by the manufacturer or is listed on labels of cartridges and canisters.

Nonpowered air-purifying respirators will not provide the maximum design protection specified unless the facepiece or mouthpiece/nose clamp is carefully fitted to the wearer's face to prevent inward leakage (WAC 296-62-07115(4)). The time period over which protection is provided is dependent on canister, cartridge, or filter type; concentration of contaminant; humidity levels in the ambient atmosphere; and the wearer's respiratory rate.

The proper type of canister, cartridge, or filter must be selected for the particular atmosphere and conditions. Nonpowered air-purifying respirators may cause discomfort due to a noticeable resistance to inhalation. This problem is minimized in powered respirators. Respirator facepieces present special problems to individuals required to wear prescription lenses. These devices do have the advantage of being small, light, and simple in operation.

Use of air-purifying respirators in atmospheres immediately dangerous to life or health is limited to specific devices under specified conditions (See Table 5).

**Vapor and Gas-Removing Respirators**

**Particulate-Removing Respirators**

Limitations: No protection is provided against particulate contaminants. A rise in canister or cartridge temperature indicates that a gas or vapor is being removed from the inspired air.

Limitations: Protection against non-volatile particles only. No protection against gases and vapors.

An uncomfortably high temperature indicates a high concentration of gas or vapor and requires an immediate return to fresh air.

Not for use in atmospheres immediately dangerous to life or health unless the device is a powered-type respirator with escape provisions (see Table 5).

Use should be avoided in atmospheres where the contaminant(s) lack sufficient warning properties (that is: odor, taste, or irritation at a concentration in air at or above the permissible exposure limit). ((¶))Vapor- and gas-removing respirators are not approved for contaminants that lack adequate warning properties.

(1) **Full Facepiece Respirator.**

Not for use in atmospheres immediately dangerous to life or health unless the device is a powered-type respirator with escape provisions (see Table 5).

Provides protection against eye irritation in addition to respiratory protection.

(2) **Quarter-Mask and Half-Mask Facepiece Respirator.** A fabric covering (facelet) available from some manufacturers shall not be used unless approved for use with respirator.

(3) **Mouthpiece Respirator.**

(1) **Full Facepiece Respirator.**

Provides protection against eye irritation in addition to respiratory protection.

Shall be used only for escape applications. Mouth breathing prevents detection of contaminant by odor. Nose clamp must be securely in place to prevent nasal breathing.

(2) **Quarter-Mask and Half-Mask Face-**

A small, lightweight device that

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material of an air-line suit and limit its effectiveness.

Other contaminants, such as fluorine, may react chemically with the material of an air-line suit and damage it.

piece Respirator. A fabric covering (facelet) available from some manufacturers shall not be used.

(3) Mouthpiece Respirator. Shall be used only for escape application. Mouth breathing prevents detection of contaminant by odor. Nose clamp must be securely in place to prevent ((prevent)) nasal breathing.

can be donned quickly.

Combination Airline Respirators with Auxiliary ((SE)) SCBA Air Supply

The auxiliary self-contained air supply on this type of device allows the wearer to escape from a dangerous atmosphere. This device with auxiliary self-contained air supply is approved for escape and may be used for entry when it contains at least 15-minute auxiliary self-contained air supply. (See Table 5).

A small lightweight device that can be donned quickly.

Combination Particulate-and-Vapor-and Gas-Removing Respirators

The advantages and disadvantages of the component sections of the combination respirator as described above apply.

Combination Atmosphere-Supplying and Air-Purifying Respirators

The advantages and disadvantages, expressed above, of the mode of operation being used will govern. The mode with the greater limitations (air-purifying mode) will mainly determine the overall capabilities and limitations of the respirator, since the wearer may for some reason fail to change the mode of operation even though conditions would require such a change.

Table 5  
Respirator Protection Factors\*

Type of Respirator	Permitted for Use in Oxygen-Deficient Atmosphere	Permitted for Use in Immediately-Dangerous-to Life-or-Health Atmosphere <sup>e</sup>	Qualitative Test	Quantitative Test
Particulate-filter quarter-mask or half-mask facepiece <sup>b,c</sup>	No	No	10	As measured on each person with maximum of 100.
Vapor- or gas-removing, quarter-mask or half-mask facepiece <sup>c</sup>	No	No	10, or maximum use limit of cartridge or canister for vapor or gas, whichever is less	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas <sup>d</sup> , whichever is less.
Combination particulate-filter and vapor- or gas-removing, quarter-mask or half-mask facepiece <sup>b,c</sup>	No	No	10, or maximum use limit of cartridge or canister for vapor or gas, whichever is less	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas <sup>d</sup> , whichever is less.
Particulate-filter, full facepiece <sup>b</sup>	No	No	100	As measured on each person with maximum of 100 if dust, fume, or mist filter is used or maximum of 1,000 if high-efficiency filter is used.
Vapor- or gas-removing, full facepiece	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less	As measured on each person with maximum of 1000, or maximum use limit of cartridge or canister for vapor or gas <sup>d</sup> , whichever is less.
Combination particulate-filter and vapor- or gas-removing, full facepiece <sup>b</sup>	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less	As measured on each person with maximum of 100 if dust, fume, or mist filter is used and maximum of 1,000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas <sup>d</sup> , whichever is less.
Powered particulate-filter, any respiratory-inlet covering <sup>b,c,d</sup>	No	No (yes, if escape provisions are provided <sup>d</sup> )	NA No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3,000 if high-efficiency filter is used.	NA
Powered vapor- or gas-removing, any respiratory-inlet covering <sup>c,d</sup>	No	No (yes, if escape provisions are provided <sup>d</sup> )	NA No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 3,000 or maximum use limit of cartridge or canister for vapor or gas <sup>d</sup> , whichever is less.	NA
Powered combination particulate-filter and vapor-	No	No (yes, if escape provisions are provided <sup>d</sup> )	NA No tests are required due to positive-pressure operation of respirator.	NA

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or gas-removing, any respirator-inlet covering<sup>b,c,d</sup>

The maximum protection factor is 100 if dust, fume, or mist filter is used and 3,000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor of gas <sup>i,j</sup>, whichever is less.

Air-line, demand, quarter-mask or half-mask facepiece, with or without escape provisions <sup>a,c</sup>	Yes <sup>f</sup>	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Air-line, demand, full face-piece, with or without escape provisions <sup>c</sup>	Yes <sup>f</sup>	No	100	As measured on each person but limited to the use of the respirators in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Air-line, continuous-flow or pressure-demand type, any facepiece without escape provisions <sup>c</sup>	Yes <sup>f</sup>	No	NA	NA No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Air-line, continuous-flow or pressure-demand type, any facepiece with escape provisions <sup>c,c</sup>	Yes <sup>a</sup>	Yes	NA	NA No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10,000 plus <sup>b</sup> .
Air-line, continuous flow, helmet, hood, or suit, without escape provisions	Yes <sup>f</sup>	No	NA	NA No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Air-line, continuous flow, helmet, hood, or suit, with escape provisions <sup>c</sup>	Yes <sup>a</sup>	No	NA	NA No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10,000 plus <sup>b</sup> .
Hose mask, with or without blower, full facepiece	Yes <sup>f</sup>	No	10	As measured on each person, but limited to the use of the respirators in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit, or negative-pressure-type closed-circuit quarter-mask or half-mask facepiece <sup>c</sup>	Yes <sup>f</sup>	No	10	As measured on each person, but limited to the use of the respirators in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit, or negative-pressure-type closed-circuit, full facepiece or mouthpiece/nose clamp <sup>c</sup>	Yes <sup>f</sup> (Yes <sup>a</sup> , if respirator is used for mine rescue and mine recovery operations.)	No (Yes if respirator is used for mine rescue and mine recovery operations.)	100	As measured on each person, but limited to the use of the respirators in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values, except when the respirator is used for mine rescue and mine recovery operations.
Self-contained breathing apparatus, pressure-demand type open-circuit, or positive-pressure-type closed-circuit quarter-mask or half-mask facepiece or mouthpiece/nose clamp <sup>c</sup>	Yes <sup>a</sup>	Yes	NA	NA No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10,000 plus <sup>b</sup> .

Combination respirators. The type and mode of operation having the lowest respirator protection factor shall be applied to the Combination Respirator not listed.

N/A means not applicable since a respirator-fitting test is not carried out.

a A respirator protection factor is a measure of the degree of protection provided by a respirator to a respirator wearer. Multiplying the permissible time-weighted average concentration or the permissible ceiling concentration, whichever is applicable, for a toxic substance, or the maximum permissible airborne concentration for a radionuclide, by a protection factor assigned to a respirator gives the maximum concentration of the hazardous substance for which the respirator can be used. Limitations of filters, cartridges, and canisters used in air-purifying respirators shall be considered in determining protection factors.

b When the respirator is used for protection against airborne particulate matter having a permissible time-weighted average concentration less than 0.05 milligram particulate matter per cubic meter of air or less than 2 million particles per cubic foot of air, or for protection against airborne radionuclide particulate matter, the respirator shall be equipped with a high-efficiency filter(s).

- c If the air contaminant causes eye irritation, the wearer of a respirator equipped with a quarter-mask or half-mask facepiece or mouthpiece and nose clamp shall be permitted to use a protective goggle or to use a respirator equipped with a full facepiece. Mouthpiece and nose clamp respirators are approved by NIOSH only for escape from IDLH atmospheres.
- d If the powered air-purifying respirator is equipped with a facepiece, the escape provision means that the wearer is able to breathe through the filter, cartridge, or canister and through the pump. If the powered air-purifying respirator is equipped with a helmet, hood, or suit, the escape provision shall be an auxiliary self-contained supply of respirable air.
- e The escape provision shall be an auxiliary self-contained supply of respirable air.
- f For definition of "oxygen deficiency-not immediately dangerous to life or health" see WAC 296-62-07105.
- g For definition of "oxygen deficiency-immediately dangerous to life or health" see WAC 296-62-07105.
- h The protection factor measurement exceeds the limit of sensitivity of the test apparatus. Therefore, the respirator has been classified for use in atmospheres having unknown concentrations of contaminants.
- i The service life of a vapor-or-gas removing cartridge canister depends on the specific vapor or gas, the concentration of the vapor or gas in air, the temperature and humidity of the air, the type and quantity of the sorbent in the cartridge or canister, and the activity of the respirator wearer. Cartridges and canisters may provide only very short service lives for certain vapors and gases. Vapor/gas service life testing is recommended to ensure that cartridges and canisters provide adequate service lives. Reference should be made to published reports which give vapor/gas life data for cartridges and canisters.
- j Vapor-and-gas removing respirators are not approved for contaminants that lack adequate warning properties of odor, irritation, or taste at concentrations in air at or above the permissible exposure limits.
- Note: Respirator protection factors for air-purifying-type respirators equipped with a mouthpiece/nose clamp form of respirator-inlet covering are not given, since such respirators are approved only for escape purposes.

## NEW SECTION

### **WAC 296-62-07460 Butadiene.** (1) Scope and application.

(a) This section applies to all occupational exposures to 1,3-Butadiene (BD), Chemical Abstracts Service Registry No. 106-99-0, except as provided in (b) of this subsection.

(b)(i) Except for the recordkeeping provisions in subsection (13)(a) of this section, this section does not apply to the processing, use, or handling of products containing BD or to other work operations and streams in which BD is present where objective data are reasonably relied upon that demonstrate the work operation or the product or the group of products or operations to which it belongs may not reasonably be foreseen to release BD in airborne concentrations at or above the action level or in excess of the STEL under the expected conditions of processing, use, or handling that will cause the greatest possible release or in any plausible accident.

(ii) This section also does not apply to work operations, products or streams where the only exposure to BD is from liquid mixtures containing 0.1% or less of BD by volume or the vapors released from such liquids, unless objective data become available that show that airborne concentrations generated by such mixtures can exceed the action level or STEL under reasonably predictable conditions of processing, use or handling that will cause the greatest possible release.

(iii) Except for labeling requirements and requirements for emergency response, this section does not apply to the storage, transportation, distribution or sale of BD or liquid mixtures in intact containers or in transportation pipelines sealed in such a manner as to fully contain BD vapors or liquids.

(c) Where products or processes containing BD are exempted under (b) of this subsection, 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 subsection (13)(a) of this section.

(2) Definitions: For the purpose of this section, the following definitions shall apply:

"Action level" means a concentration of airborne BD of 0.5 ppm calculated as an 8-hour time-weighted average.

"Director" means the director of the department of labor and industries, or authorized representatives.

"Authorized person" means any person specifically designated by the employer, whose duties require entrance into a regulated area, or a person entering such an area as a designated representative of employees to exercise the right to observe monitoring and measuring procedures under subsection (4)(h) of this section, or a person designated under the WISH Act or regulations issued under the WISH Act to enter a regulated area.

"1,3-Butadiene" means an organic compound with chemical formula  $\text{CH}_2=\text{CH}-\text{CH}=\text{CH}_2$  that has a molecular weight of approximately 54.15 gm/mole.

"Business day" means any Monday through Friday, except those days designated as federal, state, local or company specific holidays.

"Complete blood count (CBC)" means laboratory tests performed on whole blood specimens and includes the following: White blood cell count (WBC), hematocrit (Hct), red blood cell count (RBC), hemoglobin (Hgb), differential count of white blood cells, red blood cell morphology, red blood cell indices, and platelet count.

"Day" means any part of a calendar day.

"Emergency situation" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may or does result in an uncontrolled significant release of BD.

"Employee exposure" means exposure of a worker to airborne concentrations of BD which would occur if the employee were not using respiratory protective equipment.

"Objective data" means monitoring data, or mathematical modelling or calculations based on composition, chemical and physical properties of a material, stream or product.

"Permissible exposure limits (PELs)" means either the 8-hour time-weighted average (8-hr TWA) exposure or the short-term exposure limit (STEL).

"Physician or other licensed health care professional" is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide one or more of the specific health care services required by (k) of this subsection.

"Regulated area" means any area where airborne concentrations of BD exceed or can reasonably be expected to exceed the 8-hour time-weighted average (8-hr TWA) exposure of 1 ppm or the short-term exposure limit (STEL) of 5 ppm for 15 minutes.

"This section" means this 1,3-butadiene standard.

(3) Permissible exposure limits (PELs).

(a) Time-weighted average (TWA) limit. The employer shall ensure that no employee is exposed to an airborne concentration of BD in excess of one part BD per million parts of air (ppm) measured as an eight (8)-hour time-weighted average.

(b) Short-term exposure limit (STEL). The employer shall ensure that no employee is exposed to an airborne concentration of BD in excess of five parts of BD per million parts of air (5 ppm) as determined over a sampling period of fifteen minutes.

(4) Exposure monitoring.

(a) General.

(i) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the 8-hour TWA and 15-minute short-term exposures of each employee.

(ii) Representative 8-hour TWA employee exposure shall be determined on the basis of one or more samples representing full-shift exposure for each shift and for each job classification in each work area.

(iii) Representative 15-minute short-term employee exposures shall be determined on the basis of one or more samples representing 15-minute exposures associated with operations that are most likely to produce exposures above the STEL for each shift and for each job classification in each work area.

(iv) Except for the initial monitoring required under (b) of this subsection, where the employer can document that exposure levels are equivalent for similar operations on different work shifts, the employer need only determine representative employee exposure for that operation from the shift during which the highest exposure is expected.

(b) Initial monitoring.

(i) Each employer who has a workplace or work operation covered by this section, shall perform initial monitoring to determine accurately the airborne concentrations of BD to which employees may be exposed, or shall rely on objective data pursuant to subsection (1)(b)(i) of this section to fulfill this requirement.

(ii) Where the employer has monitored within two years prior to the effective date of this section and the monitoring satisfies all other requirements of this section, the employer may rely on such earlier monitoring results to satisfy the requirements of (b)(i) of this subsection, provided that the conditions under which the initial monitoring was conducted have not changed in a manner that may result in new or additional exposures.

(c) Periodic monitoring and its frequency.

(i) If the initial monitoring required by (b) of this subsection reveals employee exposure to be at or above the action level but at or below both the 8-hour TWA limit and the STEL, the employer shall repeat the representative monitoring required by (a) of this subsection every twelve months.

(ii) If the initial monitoring required by (b) of this subsection reveals employee exposure to be above the 8-hour TWA limit, the employer shall repeat the representative monitoring required by (a)(ii) of this subsection at least every three months until the employer has collected two samples per quarter (each at least 7 days apart) within a two-year period, after which such monitoring must occur at least every six months.

(iii) If the initial monitoring required by (b) of this subsection reveals employee exposure to be above the STEL, the employer shall repeat the representative monitoring required by (a)(iii) of this subsection at least every three months until the employer has collected two samples per quarter (each at least 7 days apart) within a two-year period, after which such monitoring must occur at least every six months.

(iv) The employer may alter the monitoring schedule from every six months to annually for any required representative monitoring for which two consecutive measurements taken at least 7 days apart indicate that employee exposure has decreased to or below the 8-hour TWA, but is at or above the action level.

(d) Termination of monitoring.

(i) If the initial monitoring required by (b) of this subsection reveals employee exposure to be below the action level and at or below the STEL, the employer may discontinue the monitoring for employees whose exposures are represented by the initial monitoring.

(ii) If the periodic monitoring required by (c) of this subsection reveals that employee exposures, as indicated by at least two consecutive measurements taken at least 7 days apart, are below the action level and at or below the STEL, the employer may discontinue the monitoring for those employees who are represented by such monitoring.

(e) Additional monitoring.

(i) The employer shall institute the exposure monitoring required under subsection (4) of this section whenever there has been a change in the production, process, control equipment, personnel or work practices that may result in new or additional exposures to BD or when the employer has any reason to suspect that a change may result in new or additional exposures.

(ii) Whenever spills, leaks, ruptures or other breakdowns occur that may lead to employee exposure above the 8-hr TWA limit or above the STEL, the employer shall monitor (using leak source, such as direct reading instruments, area or personal monitoring), after the cleanup of the spill or repair of the leak, rupture or other breakdown, to ensure that exposures have returned to the level that existed prior to the incident.

(f) Accuracy of monitoring.

Monitoring shall be accurate, at a confidence level of 95 percent, to within plus or minus 25 percent for airborne concentrations of BD at or above the 1 ppm TWA limit and to within plus or minus 35 percent for airborne concentra-

tions of BD at or above the action level of 0.5 ppm and below the 1 ppm TWA limit.

(g) Employee notification of monitoring results.

(i) The employer shall, within 5 business days after the receipt of the results of any monitoring performed under this section, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(ii) The employer shall, within 15 business days after receipt of any monitoring performed under this section indicating the 8-hour TWA or STEL has been exceeded, provide the affected employees, in writing, with information on the corrective action being taken by the employer to reduce employee exposure to or below the 8-hour TWA or STEL and the schedule for completion of this action.

(h) Observation of monitoring.

(i) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to BD conducted in accordance with this section.

(ii) Observation procedures. When observation of the monitoring of employee exposure to BD requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer at no cost with protective clothing and equipment, and shall ensure that the observer uses this equipment and complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish a regulated area wherever occupational exposures to airborne concentrations of BD exceed or can reasonably be expected to exceed the permissible exposure limits, either the 8-hr TWA or the STEL.

(b) Access to regulated areas shall be limited to authorized persons.

(c) Regulated areas shall be demarcated from the rest of the workplace in any manner that minimizes the number of employees exposed to BD within the regulated area.

(d) An employer at a multi-employer worksite who establishes a regulated area shall communicate the access restrictions and locations of these areas to other employers with work operations at that worksite whose employees may have access to these areas.

(6) Methods of compliance.

(a) Engineering controls and work practices.

(i) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to or below the PELs, except to the extent that the employer can establish that these controls are not feasible or where subsection (8)(a)(i) of this section applies.

(ii) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the 8-hour TWA or STEL, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of subsection (8) of this section.

(b) Compliance plan.

(i) Where any exposures are over the PELs, the employer shall establish and implement a written plan to reduce employee exposure to or below the PELs primarily by means

of engineering and work practice controls, as required by (a) of this subsection, and by the use of respiratory protection where required or permitted under this section. No compliance plan is required if all exposures are under the PELs.

(ii) The written compliance plan shall include a schedule for the development and implementation of the engineering controls and work practice controls including periodic leak detection surveys.

(iii) Copies of the compliance plan required in (b) of this subsection shall be furnished upon request for examination and copying to the director, affected employees and designated employee representatives. Such plans shall be reviewed at least every 12 months, and shall be updated as necessary to reflect significant changes in the status of the employer's compliance program.

(iv) The employer shall not implement a schedule of employee rotation as a means of compliance with the PELs.

(7) Exposure goal program.

(a) For those operations and job classifications where employee exposures are greater than the action level, in addition to compliance with the PELs, the employer shall have an exposure goal program that is intended to limit employee exposures to below the action level during normal operations.

(b) Written plans for the exposure goal program shall be furnished upon request for examination and copying to the director, affected employees and designated employee representatives.

(c) Such plans shall be updated as necessary to reflect significant changes in the status of the exposure goal program.

(d) Respirator use is not required in the exposure goal program.

(e) The exposure goal program shall include the following items unless the employer can demonstrate that the item is not feasible, will have no significant effect in reducing employee exposures, or is not necessary to achieve exposures below the action level:

(i) A leak prevention, detection, and repair program.

(ii) A program for maintaining the effectiveness of local exhaust ventilation systems.

(iii) The use of pump exposure control technology such as, but not limited to, mechanical double-sealed or seal-less pumps.

(iv) Gauging devices designed to limit employee exposure, such as magnetic gauges on rail cars.

(v) Unloading devices designed to limit employee exposure, such as a vapor return system.

(vi) A program to maintain BD concentration below the action level in control rooms by use of engineering controls.

(8) Respiratory protection.

(a) General. The employer shall provide respirators that comply with the requirements of this subsection, at no cost to each affected employee, and ensure that each affected employee uses such respirator where required by this section. Respirators shall be used in the following circumstances:

(i) During the time interval necessary to install or implement feasible engineering and work practice controls;

(ii) In nonroutine work operations which are performed infrequently and in which exposures are limited in duration;

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(iii) In work situations where feasible engineering controls and work practice controls are not yet sufficient to reduce exposures to or below the PELs; or

(iv) In emergencies.

(b) Respirator selection.

(i) Where respirators are required, the employer shall select and provide the appropriate respirator as specified in Table 1 of this section, and ensure its use.

(ii) The employer shall select respirators from among those approved by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR Part 84, "Respiratory Protective Devices." Air purifying respirators shall have filter element(s) approved by NIOSH for organic vapors or BD.

(iii) If an employee whose job requires the use of a respirator cannot use a negative pressure respirator, the employee must be provided with a respirator having less breathing resistance, such as a powered air-purifying respirator or supplied air respirator, if the employee is able to use it and if it will provide adequate protection.

(c) Respirator program. Where respiratory protection is required, the employer shall institute a respirator program in accordance with WAC 296-62-071.

(d) Respirator use.

(i) Where air-purifying respirators are used, the employer shall replace the air purifying filter element(s) according to the replacement life interval set for the class of respirator listed in Table 1 in (e) of this subsection and at the beginning of each work shift.

(ii) In lieu of the replacement intervals listed in Table 1, the employer may replace cartridges or canisters at 90% of the expiration of service life, provided the employer can demonstrate that employees will be adequately protected. BD breakthrough data relied upon by the employer must derive from tests conducted under worst case conditions of humidity, temperature, and air flow rate through the filter

element. The employer shall describe the data supporting the cartridge/canister change schedule and the basis for reliance on the data in the employer's respirator program.

(iii) A label shall be attached to the filter element(s) to indicate the date and time it is first installed on the respirator. If an employee detects the odor of BD, the employer shall replace the air-purifying element(s) immediately.

(iv) If a NIOSH-approved end of service life indicator (ESLI) for BD becomes available for an air-purifying filter element, the element may be used until such time as the indicator shows no further useful service life or until replaced at the beginning of the next work shift, whichever comes first. If an employee detects the odor of BD, the employer shall replace the air-purifying element(s) immediately.

(v) The employer shall permit employees who wear respirators to leave the regulated area to wash their faces and respirator facepieces as necessary in order to prevent skin irritation associated with respirator use or to change the filter elements of air-purifying respirators whenever they detect a change in breathing resistance or whenever the odor of BD is detected.

(e) Respirator fit testing.

(i) The employer shall perform either qualitative fit testing (QLFT) or quantitative fit testing (QNFT), as required in Appendix E to this section, at the time of initial fitting and at least annually thereafter for employees who wear tight-fitting negative pressure respirators. Fit testing shall be used to select a respirator facepiece which exhibits minimum leakage and provides the required protection as prescribed in Table 1 of this section.

(ii) For each employee wearing a tight-fitting full facepiece negative pressure respirator who is exposed to airborne concentrations of BD that exceed 10 times the TWA PEL (10 ppm), the employer shall perform quantitative fit testing as required in Appendix E to this section, at the time of initial fitting and at least annually thereafter.

**Table 1. - Minimum Requirements for Respiratory Protection for Airborne BD**

Concentration of Airborne BD (ppm) or condition of use	Minimum required respirator
Less than or equal to 5 ppm(5 times PEL)	(a) Air-purifying half mask or full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 4 hours.
Less than or equal to 10 ppm(10 times PEL)	(a) Air-purifying half mask or full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 3 hours.
Less than or equal to 25 ppm(25 times PEL)	(a) Air-purifying full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 2 hours. (b) Any powered air-purifying respirator equipped with approved BD or organic vapor cartridges. PAPR cartridges shall be replaced every 2 hours. (c) Continuous flow supplied air respirator equipped with a hood or helmet.
Less than or equal to 50 ppm(50 times PEL)	(a) Air-purifying full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 1 hour.

PROPOSED

Less than or equal to 1,000 ppm (1,000 times PEL)

Greater than 1,000 ppm

Escape from IDLH Conditions

(b) Powered air purifying respirator equipped with a tight-fitting facepiece and an approved BD or organic vapor cartridges. PAPR cartridges shall be replaced every 1 hour.

(a) Supplied air respirator equipped with a half mask or full facepiece and operated in a pressure demand or other positive pressure mode.

(a) Self-contained breathing unknown concentration, or apparatus equipped with a fire fighting full facepiece and operated in a pressure demand or other positive pressure mode.

(b) Any supplied air respirator equipped with a full facepiece and operated in a pressure demand or other positive pressure mode in combination with an auxiliary self-contained breathing apparatus operated in a pressure demand or other positive pressure mode.

(a) Any positive pressure self-contained breathing apparatus with an appropriate service life.

(b) Any air-purifying full facepiece respirator equipped with a front or back mounted BD or organic vapor canister.

Notes: Respirators approved for use in higher concentrations are permitted to be used in lower concentrations. Full facepiece is required when eye irritation is anticipated.

(iii) The employer shall ensure that employees wearing tight-fitting respirators perform a facepiece seal fit check to ensure that a proper facepiece seal is obtained prior to entry into a BD atmosphere. The recommended positive or negative pressure fit check procedures listed in Appendix E to this section or the respirator manufacturer's recommended fit check procedure shall be used.

(9) Protective clothing and equipment. Where appropriate to prevent eye contact and limit dermal exposure to BD, the employer shall provide protective clothing and equipment at no cost to the employee and shall ensure its use. Eye and face protection shall meet the requirements of WAC 296-24-078.

(10) Emergency situations. Written plan. A written plan for emergency situations shall be developed, or an existing plan shall be modified, to contain the applicable elements specified in WAC 296-24-567, Employee emergency plans and fire prevention plans, and in WAC 296-62-3112, hazardous waste operations and emergency responses, for each workplace where there is a possibility of an emergency.

(11) Medical screening and surveillance.

(a) Employees covered. The employer shall institute a medical screening and surveillance program as specified in this subsection for:

(i) Each employee with exposure to BD at concentrations at or above the action level on 30 or more days or for employees who have or may have exposure to BD at or above the PELs on 10 or more days a year;

(ii) Employers (including successor owners) shall continue to provide medical screening and surveillance for employees, even after transfer to a non-BD exposed job and regardless of when the employee is transferred, whose work histories suggest exposure to BD:

(A) At or above the PELs on 30 or more days a year for 10 or more years;

(B) At or above the action level on 60 or more days a year for 10 or more years; or

(C) Above 10 ppm on 30 or more days in any past year; and

(iii) Each employee exposed to BD following an emergency situation.

(b) Program administration.

(i) The employer shall ensure that the health questionnaire, physical examination and medical procedures are provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(ii) Physical examinations, health questionnaires, and medical procedures shall be performed or administered by a physician or other licensed health care professional.

(iii) Laboratory tests shall be conducted by an accredited laboratory.

(c) Frequency of medical screening activities. The employer shall make medical screening available on the following schedule:

(i) For each employee covered under (a)(i) and (ii) of this subsection, a health questionnaire and complete blood count (CBC) with differential and platelet count every year, and a physical examination as specified below:

(A) An initial physical examination that meets the requirements of this rule, if twelve months or more have elapsed since the last physical examination conducted as part of a medical screening program for BD exposure;

(B) Before assumption of duties by the employee in a job with BD exposure;

(C) Every 3 years after the initial physical examination;

(D) At the discretion of the physician or other licensed health care professional reviewing the annual health questionnaire and CBC;

(E) At the time of employee reassignment to an area where exposure to BD is below the action level, if the employee's past exposure history does not meet the criteria of (a)(ii) of this subsection for continued coverage in the screening and surveillance program, and if twelve months or more have elapsed since the last physical examination; and

(F) At termination of employment if twelve months or more have elapsed since the last physical examination.

(ii) Following an emergency situation, medical screening shall be conducted as quickly as possible, but not later than 48 hours after the exposure.

(iii) For each employee who must wear a respirator, physical ability to perform the work and use the respirator must be determined as required by WAC 296-62-071.

(d) Content of medical screening.

(i) Medical screening for employees covered by (a)(i) and (ii) of this subsection shall include:

(A) A baseline health questionnaire that includes a comprehensive occupational and health history and is updated annually. Particular emphasis shall be placed on the hematopoietic and reticuloendothelial systems, including exposure to chemicals, in addition to BD, that may have an adverse effect on these systems, the presence of signs and symptoms that might be related to disorders of these systems, and any other information determined by the examining physician or other licensed health care professional to be necessary to evaluate whether the employee is at increased risk of material impairment of health from BD exposure. Health questionnaires shall consist of the sample forms in Appendix C to this section, or be equivalent to those samples;

(B) A complete physical examination, with special emphasis on the liver, spleen, lymph nodes, and skin;

(C) A CBC; and

(D) Any other test which the examining physician or other licensed health care professional deems necessary to evaluate whether the employee may be at increased risk from exposure to BD.

(ii) Medical screening for employees exposed to BD in an emergency situation shall focus on the acute effects of BD exposure and at a minimum include: A CBC within 48 hours of the exposure and then monthly for three months; and a physical examination if the employee reports irritation of the eyes, nose, throat, lungs, or skin, blurred vision, coughing, drowsiness, nausea, or headache. Continued employee participation in the medical screening and surveillance program, beyond these minimum requirements, shall be at the discretion of the physician or other licensed health care professional.

(e) Additional medical evaluations and referrals.

(i) Where the results of medical screening indicate abnormalities of the hematopoietic or reticuloendothelial systems, for which a nonoccupational cause is not readily apparent, the examining physician or other licensed health care professional shall refer the employee to an appropriate specialist for further evaluation and shall make available to the specialist the results of the medical screening.

(ii) The specialist to whom the employee is referred under this subsection shall determine the appropriate content for the medical evaluation, e.g., examinations, diagnostic tests and procedures, etc.

(f) Information provided to the physician or other licensed health care professional. The employer shall provide the following information to the examining physician or other licensed health care professional involved in the evaluation:

(i) A copy of this section including its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's BD exposure;

(iii) The employee's actual or representative BD exposure level during employment tenure, including exposure incurred in an emergency situation;

(iv) A description of pertinent personal protective equipment used or to be used; and

(v) Information, when available, from previous employment-related medical evaluations of the affected employee which is not otherwise available to the physician or other licensed health care professional or the specialist.

(g) The written medical opinion.

(i) For each medical evaluation required by this section, the employer shall ensure that the physician or other licensed health care professional produces a written opinion and provides a copy to the employer and the employee within 15 business days of the evaluation. The written opinion shall be limited to the following information:

(A) The occupationally pertinent results of the medical evaluation;

(B) A medical opinion concerning whether the employee has any detected medical conditions which would place the employee's health at increased risk of material impairment from exposure to BD;

(C) Any recommended limitations upon the employee's exposure to BD; and

(D) A statement that the employee has been informed of the results of the medical evaluation and any medical conditions resulting from BD exposure that require further explanation or treatment.

(ii) The written medical opinion provided to the employer shall not reveal specific records, findings, and diagnoses that have no bearing on the employee's ability to work with BD.

Note: This provision does not negate the ethical obligation of the physician or other licensed health care professional to transmit any other adverse findings directly to the employee.

(h) Medical surveillance.

(i) The employer shall ensure that information obtained from the medical screening program activities is aggregated (with all personal identifiers removed) and periodically reviewed, to ascertain whether the health of the employee population of that employer is adversely affected by exposure to BD.

(ii) Information learned from medical surveillance activities must be disseminated to covered employees, as defined in (a) of this subsection, in a manner that ensures the confidentiality of individual medical information.

(12) Communication of BD hazards to employees.

(a) Hazard communication. The employer shall communicate the hazards associated with BD exposure in accordance with the requirements of the hazard communication standard, WAC 296-62-054.

(b) Employee information and training.

(i) The employer shall provide all employees exposed to BD with information and training in accordance with the requirements of the hazard communication standard, WAC 296-62-054.

(ii) The employer shall institute a training program for all employees who are potentially exposed to BD at or above the action level or the STEL, ensure employee participation in the program and maintain a record of the contents of such program.

(iii) Training shall be provided prior to or at the time of initial assignment to a job potentially involving exposure to

BD at or above the action level or STEL and at least annually thereafter.

(iv) The training program shall be conducted in a manner that the employee is able to understand. The employer shall ensure that each employee exposed to BD over the action level or STEL is informed of the following:

(A) The health hazards associated with BD exposure, and the purpose and a description of the medical screening and surveillance program required by this section;

(B) The quantity, location, manner of use, release, and storage of BD and the specific operations that could result in exposure to BD, especially exposures above the PEL or STEL;

(C) The engineering controls and work practices associated with the employee's job assignment, and emergency procedures and personal protective equipment;

(D) The measures employees can take to protect themselves from exposure to BD;

(E) The contents of this standard and its appendices; and

(F) The right of each employee exposed to BD at or above the action level or STEL to obtain:

(I) Medical examinations as required by subsection (10) of this section at no cost to the employee;

(II) The employee's medical records required to be maintained by subsection (13)(d) of this section; and

(III) All air monitoring results representing the employee's exposure to BD and required to be kept by subsection (13)(b) of this section.

(c) Access to information and training materials.

(i) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees and their designated representatives and shall provide a copy if requested.

(ii) The employer shall provide to the director, or the designated employee representatives, upon request, all materials relating to the employee information and the training program.

(13) Recordkeeping.

(a) Objective data for exemption from initial monitoring.

(i) Where the processing, use, or handling of products or streams made from or containing BD are exempted from other requirements of this section under subsection (1)(b) of this section, or where objective data have been relied on in lieu of initial monitoring under subsection (4)(b)(ii) of this section, the employer shall establish and maintain a record of the objective data reasonably relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The product or activity qualifying for exemption;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and analysis of the material for the release of BD;

(D) A description of the operation exempted and how the data support the exemption; and

(E) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure measurements.

(i) The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to BD as prescribed in subsection (4) of this section.

(ii) The record shall include at least the following information:

(A) The date of measurement;

(B) The operation involving exposure to BD which is being monitored;

(C) Sampling and analytical methods used and evidence of their accuracy;

(D) Number, duration, and results of samples taken;

(E) Type of protective devices worn, if any;

(F) Name, Social Security number and exposure of the employees whose exposures are represented; and

(G) The written corrective action and the schedule for completion of this action required by subsection (4)(g)(ii) of this section.

(iii) The employer shall maintain this record for at least 30 years in accordance with WAC 296-62-052.

(c) Respirator fit test.

(i) The employer shall establish a record of the fit tests administered to an employee including:

(A) The name of the employee;

(B) Type of respirator;

(C) Brand and size of respirator;

(D) Date of test; and

(E) Where QNFT is used, the fit factor, strip chart recording or other recording of the results of the test.

(ii) Fit test records shall be maintained for respirator users until the next fit test is administered.

(d) Medical screening and surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical screening and surveillance under this section.

(ii) The record shall include at least the following information:

(A) The name and Social Security number of the employee;

(B) Physician's or other licensed health care professional's written opinions as described in subsection (11)(f) of this section;

(C) A copy of the information provided to the physician or other licensed health care professional as required by subsections (11)(f) of this section.

(iii) Medical screening and surveillance records shall be maintained for each employee for the duration of employment plus 30 years, in accordance with WAC 296-62-052.

(e) Availability.

(i) The employer, upon written request, shall make all records required to be maintained by this section available for examination and copying to the director.

(ii) Access to records required to be maintained by (a) through (c) of this subsection shall be granted in accordance with WAC 296-62-05209.

(f) Transfer of records.

(i) Whenever the employer ceases to do business, the employer shall transfer records required by this section to the successor employer. The successor employer shall receive and maintain these records. If there is no successor employer, the employer shall notify the director, at least three

months prior to disposal, and transmit them to the director if requested by the director within that period.

(ii) The employer shall transfer medical and exposure records as set forth in WAC 296-62-05215.

(14) Dates.

(a) Effective date. This section shall become effective (day, month), 1997.

(b) Start-up dates.

(i) The initial monitoring required under subsection (4)(b) of this section shall be completed immediately or within sixty days of the introduction of BD into the workplace.

(ii) The requirements of subsections (3) through (13) of this section, including feasible work practice controls but not including engineering controls specified in subsection (6)(a) of this section, shall be complied with immediately.

(iii) Engineering controls specified by subsection (6)(a) of this section shall be implemented by February 4, 1999, and the exposure goal program specified in subsection (7) of this section shall be implemented by February 4, 2000.

(15) Appendices.

(a) Appendix E to this section is mandatory.

(b) Appendices A, B, C, D, and F to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

Appendix A. Substance Safety Data Sheet For 1,3-Butadiene (Non-Mandatory)

(1) Substance Identification.

(a) Substance: 1,3-Butadiene (CH<sub>2</sub>=CH-CH=CH<sub>2</sub>).

(b) Synonyms: 1,3-Butadiene (BD); butadiene; biethylene; bi-vinyl; divinyl; butadiene-1,3; buta-1,3-diene; erythrene; NCI-C50602; CAS-106-99-0.

(c) BD can be found as a gas or liquid.

(d) BD is used in production of styrene-butadiene rubber and polybutadiene rubber for the tire industry. Other uses include copolymer latexes for carpet backing and paper coating, as well as resins and polymers for pipes and automobile and appliance parts. It is also used as an intermediate in the production of such chemicals as fungicides.

(e) Appearance and odor: BD is a colorless, non-corrosive, flammable gas with a mild aromatic odor at standard ambient temperature and pressure.

(f) Permissible exposure: Exposure may not exceed 1 part BD per million parts of air averaged over the 8-hour workday, nor may short-term exposure exceed 5 parts of BD per million parts of air averaged over any 15-minute period in the 8-hour workday.

(2) Health Hazard Data.

(a) BD can affect the body if the gas is inhaled or if the liquid form, which is very cold (cryogenic), comes in contact with the eyes or skin.

(b) Effects of overexposure: Breathing very high levels of BD for a short time can cause central nervous system effects, blurred vision, nausea, fatigue, headache, decreased blood pressure and pulse rate, and unconsciousness. There are no recorded cases of accidental exposures at high levels that have caused death in humans, but this could occur. Breathing lower levels of BD may cause irritation of the

eyes, nose, and throat. Skin contact with liquefied BD can cause irritation and frostbite.

(c) Long-term (chronic) exposure: BD has been found to be a potent carcinogen in rodents, inducing neoplastic lesions at multiple target sites in mice and rats. A recent study of BD-exposed workers showed that exposed workers have an increased risk of developing leukemia. The risk of leukemia increases with increased exposure to BD. OSHA has concluded that there is strong evidence that workplace exposure to BD poses an increased risk of death from cancers of the lymphohematopoietic system.

(d) Reporting signs and symptoms: You should inform your supervisor if you develop any of these signs or symptoms and suspect that they are caused by exposure to BD.

(3) Emergency First Aid Procedures.

In the event of an emergency, follow the emergency plan and procedures designated for your work area. If you have been trained in first aid procedures, provide the necessary first aid measures. If necessary, call for additional assistance from co-workers and emergency medical personnel.

(a) Eye and Skin Exposures: If there is a potential that liquefied BD can come in contact with eye or skin, face shields and skin protective equipment must be provided and used. If liquefied BD comes in contact with the eye, immediately flush the eyes with large amounts of water, occasionally lifting the lower and the upper lids. Flush repeatedly. Get medical attention immediately. Contact lenses should not be worn when working with this chemical. In the event of skin contact, which can cause frostbite, remove any contaminated clothing and flush the affected area repeatedly with large amounts of tepid water.

(b) Breathing: If a person breathes in large amounts of BD, move the exposed person to fresh air at once. If breathing has stopped, begin cardiopulmonary resuscitation (CPR) if you have been trained in this procedure. Keep the affected person warm and at rest. Get medical attention immediately.

(c) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, call for help and begin emergency rescue procedures. Use extreme caution so that you do not become a casualty. Understand the plant's emergency rescue procedures and know the locations of rescue equipment before the need arises.

(4) Respirators and Protective Clothing.

(a) Respirators: Good industrial hygiene practices recommend that engineering and work practice controls be used to reduce environmental concentrations to the permissible exposure level. However, there are some exceptions where respirators may be used to control exposure. Respirators may be used when engineering and work practice controls are not technically feasible, when such controls are in the process of being installed, or when these controls fail and need to be supplemented or during brief, non-routine, intermittent exposure. Respirators may also be used in situations involving non-routine work operations which are performed infrequently and in which exposures are limited in duration, and in emergency situations. In some instances cartridge respirator use is allowed, but only with strict time constraints. For example, at exposure below 5 ppm BD, a cartridge (or canister) respirator, either full or half face, may

be used, but the cartridge must be replaced at least every 4 hours, and it must be replaced every 3 hours when the exposure is between 5 and 10 ppm.

If the use of respirators is necessary, the only respirators permitted are those that have been approved by the National Institute for Occupational Safety and Health (NIOSH). In addition to respirator selection, a complete respiratory protection program must be instituted which includes regular training, maintenance, fit testing, inspection, cleaning, and evaluation of respirators. If you can smell BD while wearing a respirator, proceed immediately to fresh air, and change cartridge (or canister) before re-entering an area where there is BD exposure. If you experience difficulty in breathing while wearing a respirator, tell your supervisor.

(b) Protective Clothing: Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent the skin from becoming frozen by contact with liquefied BD (or a vessel containing liquid BD).

Employees should be provided with and required to use splash-proof safety goggles where liquefied BD may contact the eyes.

(5) Precautions for Safe Use, Handling, and Storage.

(a) Fire and Explosion Hazards: BD is a flammable gas and can easily form explosive mixtures in air. It has a lower explosive limit of 2%, and an upper explosive limit of 11.5%. It has an autoignition temperature of 420 deg. C (788 deg. F). Its vapor is heavier than air (vapor density, 1.9) and may travel a considerable distance to a source of ignition and flash back. Usually it contains inhibitors to prevent self-polymerization (which is accompanied by evolution of heat) and to prevent formation of explosive peroxides. At elevated temperatures, such as in fire conditions, polymerization may take place. If the polymerization takes place in a container, there is a possibility of violent rupture of the container.

(b) Hazard: Slightly toxic. Slight respiratory irritant. Direct contact of liquefied BD on skin may cause freeze burns and frostbite.

(c) Storage: Protect against physical damage to BD containers. Outside or detached storage of BD containers is preferred. Inside storage should be in a cool, dry, well-ventilated, noncombustible location, away from all possible sources of ignition. Store cylinders vertically and do not stack. Do not store with oxidizing material.

(d) Usual Shipping Containers: Liquefied BD is contained in steel pressure apparatus.

(e) Electrical Equipment: Electrical installations in Class I hazardous locations, as defined in Article 500 of the National Electrical Code, should be in accordance with Article 501 of the Code. If explosion-proof electrical equipment is necessary, it shall be suitable for use in Group B. Group D equipment may be used if such equipment is isolated in accordance with Section 501-5(a) by sealing all conduit 1/2-inch size or larger. See Venting of Deflagrations (NFPA No. 68, 1994), National Electrical Code (NFPA No. 70, 1996), Static Electricity (NFPA No. 77, 1993), Lightning Protection Systems (NFPA No. 780, 1995), and Fire Hazard Properties of Flammable Liquids, Gases and Volatile Solids (NFPA No. 325, 1994).

(f) Fire Fighting: Stop flow of gas. Use water to keep fire-exposed containers cool. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

(g) Spill and Leak: Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until clean-up has been completed. If BD is spilled or leaked, the following steps should be taken:

(i) Eliminate all ignition sources.

(ii) Ventilate area of spill or leak.

(iii) If in liquid form, for small quantities, allow to evaporate in a safe manner.

(iv) Stop or control the leak if this can be done without risk. If source of leak is a cylinder and the leak cannot be stopped in place, remove the leaking cylinder to a safe place and repair the leak or allow the cylinder to empty.

(h) Disposal: This substance, when discarded or disposed of, is a hazardous waste according to Federal regulations (40 CFR part 261). It is listed as hazardous waste number D001 due to its ignitability. The transportation, storage, treatment, and disposal of this waste material must be conducted in compliance with 40 CFR parts 262, 263, 264, 268 and 270. Disposal can occur only in properly permitted facilities. Check state and local regulation of any additional requirements as these may be more restrictive than federal laws and regulation.

(i) You should not keep food, beverages, or smoking materials in areas where there is BD exposure, nor should you eat or drink in such areas.

(j) Ask your supervisor where BD is used in your work area and ask for any additional plant safety and health rules.

(6) Medical Requirements.

Your employer is required to offer you the opportunity to participate in a medical screening and surveillance program if you are exposed to BD at concentrations exceeding the action level (0.5 ppm BD as an 8-hour TWA) on 30 days or more a year, or at or above the 8-hr TWA (1 ppm) or STEL (5 ppm for 15 minutes) on 10 days or more a year. Exposure for any part of a day counts. If you have had exposure to BD in the past, but have been transferred to another job, you may still be eligible to participate in the medical screening and surveillance program.

The WISHA rule specifies the past exposures that would qualify you for participation in the program. These past exposure are work histories that suggest the following:

(a) That you have been exposed at or above the PELs on 30 days a year for 10 or more years;

(b) That you have been exposed at or above the action level on 60 days a year for 10 or more years; or

(c) That you have been exposed above 10 ppm on 30 days in any past year.

Additionally, if you are exposed to BD in an emergency situation, you are eligible for a medical examination within 48 hours. The basic medical screening program includes a health questionnaire, physical examination, and blood test. These medical evaluations must be offered to you at a reasonable time and place, and without cost or loss of pay.

(7) Observation of Monitoring.

Your employer is required to perform measurements that are representative of your exposure to BD and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken

in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you or your representative must also be provided with, and must wear, the protective clothing and equipment.

(8) Access to Information.

(a) Each year, your employer is required to inform you of the information contained in this appendix. In addition, your employer must instruct you in the proper work practices for using BD, emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to BD. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits and of the schedule to implement these actions.

(c) Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least thirty (30) years.

(d) Your employer is required to release your exposure and medical records to you or your representative upon your request.

Appendix B. Substance Technical Guidelines for 1,3-Butadiene (Non-Mandatory)

(1) Physical and Chemical Data.

(a) Substance identification:

(i) Synonyms: 1,3-Butadiene (BD); butadiene; biethylene; divinyl; divinyl; butadiene-1,3; buta-1,3-diene; erythrene; NCI-C50620; CAS-106-99-0.

(ii) Formula:  $(CH_2)=CH-CH=CH_2$ .

(iii) Molecular weight: 54.1.

(b) Physical data:

(i) Boiling point (760 mm Hg): -4.7 deg. C (23.5 deg. F).

(ii) Specific gravity (water=1): 0.62 at 20 deg. C (68 deg. F).

(iii) Vapor density (air=1 at boiling point of BD): 1.87.

(iv) Vapor pressure at 20 deg. C (68 deg. F): 910 mm Hg.

(v) Solubility in water, g/100 g water at 20 deg. C (68 deg. F): 0.05.

(vi) Appearance and odor: Colorless, flammable gas with a mildly aromatic odor. Liquefied BD is a colorless liquid with a mildly aromatic odor.

(2) Fire, Explosion, and Reactivity Hazard Data.

(a) Fire:

(i) Flash point: -76 deg. C (-105 deg. F) for take out; liquefied BD; Not applicable to BD gas.

(ii) Stability: A stabilizer is added to the monomer to inhibit formation of polymer during storage. Forms explosive peroxides in air in absence of inhibitor.

(iii) Flammable limits in air, percent by volume: Lower: 2.0; Upper: 11.5.

(iv) Extinguishing media: Carbon dioxide for small fires, polymer or alcohol foams for large fires.

(v) Special fire fighting procedures: Fight fire from protected location or maximum possible distance. Stop flow of gas before extinguishing fire. Use water spray to keep fire-exposed cylinders cool.

(vi) Unusual fire and explosion hazards: BD vapors are heavier than air and may travel to a source of ignition and flash back. Closed containers may rupture violently when heated.

(vii) For purposes of compliance with the requirements of WAC 296-24-330, BD is classified as a flammable gas. For example, 7,500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

(viii) For purposes of compliance with WAC 296-24-585, BD is classified as a Class B fire hazard.

(ix) For purposes of compliance with WAC 296-24-956, locations classified as hazardous due to the presence of BD shall be Class I.

(b) Reactivity:

(i) Conditions contributing to instability: Heat. Peroxides are formed when inhibitor concentration is not maintained at proper level. At elevated temperatures, such as in fire conditions, polymerization may take place.

(ii) Incompatibilities: Contact with strong oxidizing agents may cause fires and explosions. The contacting of crude BD (not BD monomer) with copper and copper alloys may cause formations of explosive copper compounds.

(iii) Hazardous decomposition products: Toxic gases (such as carbon monoxide) may be released in a fire involving BD.

(iv) Special precautions: BD will attack some forms of plastics, rubber, and coatings. BD in storage should be checked for proper inhibitor content, for self-polymerization, and for formation of peroxides when in contact with air and iron. Piping carrying BD may become plugged by formation of rubbery polymer.

(c) Warning Properties:

(i) Odor Threshold: An odor threshold of 0.45 ppm has been reported in The American Industrial Hygiene Association (AIHA) Report, Odor Thresholds for Chemicals with Established Occupational Health Standards. (Ex. 32-28C).

(ii) Eye Irritation Level: Workers exposed to vapors of BD (concentration or purity unspecified) have complained of irritation of eyes, nasal passages, throat, and lungs. Dogs and rabbits exposed experimentally to as much as 6700 ppm for 7 1/2 hours a day for 8 months have developed no histologically demonstrable abnormality of the eyes.

(iii) Evaluation of Warning Properties: Since the mean odor threshold is about half of the 1 ppm PEL, and more than 10-fold below the 5 ppm STEL, most wearers of air purifying respirators should still be able to detect breakthrough before a significant overexposure to BD occurs.

(3) Spill, Leak, and Disposal Procedures.

(a) Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until cleanup has been completed. If BD is spilled or leaked, the following steps should be taken:

(i) Eliminate all ignition sources.

(ii) Ventilate areas of spill or leak.

(iii) If in liquid form, for small quantities, allow to evaporate in a safe manner.

(iv) Stop or control the leak if this can be done without risk. If source of leak is a cylinder and the leak cannot be stopped in place, remove the leaking cylinder to a safe place and repair the leak or allow the cylinder to empty.

(b) Disposal: This substance, when discarded or disposed of, is a hazardous waste according to Federal regulations (40 CFR part 261). It is listed by the EPA as hazardous waste number D001 due to its ignitability. The transportation, storage, treatment, and disposal of this waste material must be conducted in compliance with 40 CFR parts 262, 263, 264, 268 and 270. Disposal can occur only in properly permitted facilities. Check state and local regulations for any additional requirements because these may be more restrictive than federal laws and regulations.

(4) Monitoring and Measurement Procedures.

(a) Exposure above the Permissible Exposure Limit (8-hr TWA) or Short-Term Exposure Limit (STEL):

(i) 8-hr TWA exposure evaluation: Measurements taken for the purpose of determining employee exposure under this standard are best taken with consecutive samples covering the full shift. Air samples must be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

(ii) STEL exposure evaluation: Measurements must represent 15 minute exposures associated with operations most likely to exceed the STEL in each job and on each shift.

(iii) Monitoring frequencies: Table 1 gives various exposure scenarios and their required monitoring frequencies, as required by the final standard for occupational exposure to butadiene.

Table 1. — Five Exposure Scenarios and Their Associated Monitoring Frequencies

Action Level	8-hr TWA	STEL	Required Monitoring Activity
—*	—	—	No 8-hr TWA or STEL monitoring required.
+*	—	—	No STEL monitoring required. Monitor 8-hr TWA annually.
+	—	—	No STEL monitoring required. Periodic monitoring 8-hr TWA, in accordance with (4)(c)(iii).**
+	+	+	Periodic monitoring 8-hr TWA, in accordance with (4)(c)(iii)**. Periodic monitoring STEL in accordance with (4)(c)(iii).
+	—	+	Periodic monitoring STEL, in accordance with (4)(c)(iii). Monitor 8-hr TWA annually.

Footnote(\*) Exposure Scenario, Limit Exceeded: + = Yes, - = No.

Footnote(\*\*) The employer may decrease the frequency of exposure monitoring to annually when at least 2 consecutive measurements taken at least 7 days apart show exposures to be below the 8-hr TWA, but at or above the action level.

(iv) Monitoring techniques: Appendix D describes the validated method of sampling and analysis which has been tested by OSHA for use with BD. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his or her unique field conditions. The standard requires that the method of monitoring must be accurate, to a 95 percent confidence level, to plus or minus 25 percent for concentrations of BD at or above 1 ppm, and to plus or minus 35 percent for concentrations below 1 ppm.

(5) Personal Protective Equipment.

(a) Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent the skin from becoming frozen from contact with liquid BD.

(b) Any clothing which becomes wet with liquid BD should be removed immediately and not re-worn until the butadiene has evaporated.

(c) Employees should be provided with and required to use splash proof safety goggles where liquid BD may contact the eyes.

(6) Housekeeping and Hygiene Facilities.

For purposes of complying with WAC 296-24-120 (Part B-1 Sanitation), the following items should be emphasized:

(a) The workplace should be kept clean, orderly, and in a sanitary condition.

(b) Adequate washing facilities with hot and cold water are to be provided and maintained in a sanitary condition.

(7) Additional Precautions.

(a) Store BD in tightly closed containers in a cool, well-ventilated area and take all necessary precautions to avoid any explosion hazard.

(b) Non-sparking tools must be used to open and close metal containers. These containers must be effectively grounded.

(c) Do not incinerate BD cartridges, tanks or other containers.

(d) Employers must advise employees of all areas and operations where exposure to BD might occur.

Appendix C. Medical Screening and Surveillance for 1,3-Butadiene (Non-Mandatory)

(1) Basis for Medical Screening and Surveillance Requirements.

(a) Route of Entry Inhalation.

PROPOSED

**(b) Toxicology.**

Inhalation of BD has been linked to an increased risk of cancer, damage to the reproductive organs, and fetotoxicity. Butadiene can be converted via oxidation to epoxybutene and diepoxybutane, two genotoxic metabolites that may play a role in the expression of BD's toxic effects. BD has been tested for carcinogenicity in mice and rats. Both species responded to BD exposure by developing cancer at multiple primary organ sites. Early deaths in mice were caused by malignant lymphomas, primarily lymphocytic type, originating in the thymus.

Mice exposed to BD have developed ovarian or testicular atrophy. Sperm head morphology tests also revealed abnormal sperm in mice exposed to BD; lethal mutations were found in a dominant lethal test. In light of these results in animals, the possibility that BD may adversely affect the reproductive systems of male and female workers must be considered.

Additionally, anemia has been observed in animals exposed to butadiene. In some cases, this anemia appeared to be a primary response to exposure; in other cases, it may have been secondary to a neoplastic response.

**(c) Epidemiology.**

Epidemiologic evidence demonstrates that BD exposure poses an increased risk of leukemia. Mild alterations of hematologic parameters have also been observed in synthetic rubber workers exposed to BD.

**(2) Potential Adverse Health Effects.****(a) Acute.**

Skin contact with liquid BD causes characteristic burns or frostbite. BD in gaseous form can irritate the eyes, nasal passages, throat, and lungs. Blurred vision, coughing, and drowsiness may also occur. Effects are mild at 2,000 ppm and pronounced at 8,000 ppm for exposures occurring over the full workshift.

At very high concentrations in air, BD is an anesthetic, causing narcosis, respiratory paralysis, unconsciousness, and death. Such concentrations are unlikely, however, except in an extreme emergency because BD poses an explosion hazard at these levels.

**(b) Chronic.**

The principal adverse health effects of concern are BD-induced lymphoma, leukemia and potential reproductive toxicity. Anemia and other changes in the peripheral blood cells may be indicators of excessive exposure to BD.

**(c) Reproductive.**

Workers may be concerned about the possibility that their BD exposure may be affecting their ability to procreate a healthy child. For workers with high exposures to BD, especially those who have experienced difficulties in conceiving, miscarriages, or stillbirths, appropriate medical and laboratory evaluation of fertility may be necessary to determine if BD is having any adverse effect on the reproductive system or on the health of the fetus.

**(3) Medical Screening Components At-A-Glance.****(a) Health Questionnaire.**

The most important goal of the health questionnaire is to elicit information from the worker regarding potential signs or symptoms generally related to leukemia or other blood abnormalities. Therefore, physicians or other licensed health care professionals should be aware of the presenting symptoms and signs of lymphohematopoietic disorders and

cancers, as well as the procedures necessary to confirm or exclude such diagnoses. Additionally, the health questionnaire will assist with the identification of workers at greatest risk of developing leukemia or adverse reproductive effects from their exposures to BD.

Workers with a history of reproductive difficulties or a personal or family history of immune deficiency syndromes, blood dyscrasias, lymphoma, or leukemia, and those who are or have been exposed to medicinal drugs or chemicals known to affect the hematopoietic or lymphatic systems may be at higher risk from their exposure to BD. After the initial administration, the health questionnaire must be updated annually.

**(b) Complete Blood Count (CBC).**

The medical screening and surveillance program requires an annual CBC, with differential and platelet count, to be provided for each employee with BD exposure. This test is to be performed on a blood sample obtained by phlebotomy of the venous system or, if technically feasible, from a fingerstick sample of capillary blood. The sample is to be analyzed by an accredited laboratory.

Abnormalities in a CBC may be due to a number of different etiologies. The concern for workers exposed to BD includes, but is not limited to, timely identification of lymphohematopoietic cancers, such as leukemia and non-Hodgkin's lymphoma. Abnormalities of portions of the CBC are identified by comparing an individual's results to those of an established range of normal values for males and females. A substantial change in any individual employee's CBC may also be viewed as "abnormal" for that individual even if all measurements fall within the population-based range of normal values. It is suggested that a flowsheet for laboratory values be included in each employee's medical record so that comparisons and trends in annual CBCs can be easily made.

A determination of the clinical significance of an abnormal CBC shall be the responsibility of the examining physician, other licensed health care professional, or medical specialist to whom the employee is referred. Ideally, an abnormal CBC should be compared to previous CBC measurements for the same employee, when available. Clinical common sense may dictate that a CBC value that is very slightly outside the normal range does not warrant medical concern. A CBC abnormality may also be the result of a temporary physical stressor, such as a transient viral illness, blood donation, or menorrhagia, or laboratory error. In these cases, the CBC should be repeated in a timely fashion, i.e., within 6 weeks, to verify that return to the normal range has occurred. A clinically significant abnormal CBC should result in removal of the employee from further exposure to BD. Transfer of the employee to other work duties in a BD-free environment would be the preferred recommendation.

**(c) Physical Examination.**

The medical screening and surveillance program requires an initial physical examination for workers exposed to BD; this examination is repeated once every three years. The initial physical examination should assess each worker's baseline general health and rule out clinical signs of medical conditions that may be caused by or aggravated by occupational BD exposure. The physical examination should be directed at identification of signs of lymphohematopoietic

disorders, including lymph node enlargement, splenomegaly, and hepatomegaly.

Repeated physical examinations should update objective clinical findings that could be indicative of interim development of a lymphohematopoietic disorder, such as lymphoma, leukemia, or other blood abnormality. Physical examinations may also be provided on an as needed basis in order to follow up on a positive answer on the health questionnaire, or in response to an abnormal CBC. Physical examination of workers who will no longer be working in jobs with BD exposure are intended to rule out lymphohematopoietic disorders.

The need for physical examinations for workers concerned about adverse reproductive effects from their exposure to BD should be identified by the physician or other licensed health care professional and provided accordingly. For these workers, such consultations and examinations may relate to developmental toxicity and reproductive capacity.

Physical examination of workers acutely exposed to significant levels of BD should be especially directed at the respiratory system, eyes, sinuses, skin, nervous system, and any region associated with particular complaints. If the worker has received a severe acute exposure, hospitalization may be required to assure proper medical management. Since this type of exposure may place workers at greater risk of blood abnormalities, a CBC must be obtained within 48 hours and repeated at one, two, and three months.

Appendix D: Sampling and Analytical Method for 1,3-Butadiene (Non-Mandatory)

OSHA Method No.: 56.

Matrix: Air.

Target concentration: 1 ppm (2.21 mg/m(3)).

Procedure: Air samples are collected by drawing known volumes of air through sampling tubes containing charcoal adsorbent which has been coated with 4-tert-butylcatechol. The samples are desorbed with carbon disulfide and then analyzed by gas chromatography using a flame ionization detector.

Recommended sampling rate and air volume: 0.05 L/min and 3 L.

Detection limit of the overall procedure: 90 ppb (200 ug/m(3)) (based on 3 L air volume).

Reliable quantitation limit: 155 ppb (343 ug/m(3)) (based on 3 L air volume).

Standard error of estimate at the target concentration: 6.5%.

Special requirements: The sampling tubes must be coated with 4-tert-butylcatechol. Collected samples should be stored in a freezer.

Status of method: A sampling and analytical method has been subjected to the established evaluation procedures of the Organic Methods Evaluation Branch, OSHA Analytical Laboratory, Salt Lake City, Utah 84165.

#### (1) Background.

This work was undertaken to develop a sampling and analytical procedure for BD at 1 ppm. The current method recommended by OSHA for collecting BD uses activated coconut shell charcoal as the sampling medium (Ref. 5.2). This method was found to be inadequate for use at low BD levels because of sample instability.

The stability of samples has been significantly improved through the use of a specially cleaned charcoal which is coated with 4-tert-butylcatechol (TBC). TBC is a polymerization inhibitor for BD (Ref. 5.3).

#### (a) Toxic effects.

Symptoms of human exposure to BD include irritation of the eyes, nose and throat. It can also cause coughing, drowsiness and fatigue. Dermatitis and frostbite can result from skin exposure to liquid BD. (Ref. 5.1)

NIOSH recommends that BD be handled in the workplace as a potential occupational carcinogen. This recommendation is based on two inhalation studies that resulted in cancers at multiple sites in rats and in mice. BD has also demonstrated mutagenic activity in the presence of a liver microsomal activating system. It has also been reported to have adverse reproductive effects. (Ref. 5.1)

#### (b) Potential workplace exposure.

About 90% of the annual production of BD is used to manufacture styrene-butadiene rubber and Polybutadiene rubber. Other uses include: Polychloroprene rubber, acrylonitrile butadiene-styrene resins, nylon intermediates, styrene-butadiene latexes, butadiene polymers, thermoplastic elastomers, nitrile resins, methyl methacrylate-butadiene styrene resins and chemical intermediates. (Ref. 5.1)

#### (c) Physical properties (Ref. 5.1).

CAS No.: 106-99-0

Molecular weight: 54.1

Appearance: Colorless gas

Boiling point: -4.41 deg. C (760 mm Hg)

Freezing point: -108.9 deg. C

Vapor pressure: 2 atm (a) 15.3 deg. C; 5 atm (a) 47 deg. C

Explosive limits: 2 to 11.5% (by volume in air)

Odor threshold: 0.45 ppm

Structural formula: H(2)C:CHCH:CH(2)

Synonyms: BD; biethylene; bivinyl; butadiene; divinyl; buta-1,3-diene; alpha-gamma-butadiene; erythrene; NCI-C50602; pyrrolylene; vinyl ethylene.

#### (d) Limit defining parameters.

The analyte air concentrations listed throughout this method are based on an air volume of 3 L and a desorption volume of 1 mL. Air concentrations listed in ppm are referenced to 25 deg. C and 760 mm Hg.

#### (e) Detection limit of the analytical procedure.

The detection limit of the analytical procedure was 304 pg per injection. This was the amount of BD which gave a response relative to the interferences present in a standard.

#### (f) Detection limit of the overall procedure.

The detection limit of the overall procedure was 0.60 ug per sample (90 ppb or 200 ug/m(3)). This amount was determined graphically. It was the amount of analyte which, when spiked on the sampling device, would allow recovery approximately equal to the detection limit of the analytical procedure.

#### (g) Reliable quantitation limit.

The reliable quantitation limit was 1.03 ug per sample (155 ppb or 343 ug/m(3)). This was the smallest amount of analyte which could be quantitated within the limits of a recovery of at least 75% and a precision (+/- 1.96 SD) of +/- 25% or better.

#### (h) Sensitivity.(1)

Footnote(1) The reliable quantitation limit and detection limits reported in the method are based upon optimization of the instrument for the smallest possible amount of analyte. When the target concentration of an analyte is exceptionally higher than these limits, they may not be attainable at the routine operation parameters.

The sensitivity of the analytical procedure over a concentration range representing 0.6 to 2 times the target concentration, based on the recommended air volume, was 387 area units per ug/mL. This value was determined from the slope of the calibration curve. The sensitivity may vary with the particular instrument used in the analysis.

(i) Recovery.

The recovery of BD from samples used in storage tests remained above 77% when the samples were stored at ambient temperature and above 94% when the samples were stored at refrigerated temperature. These values were determined from regression lines which were calculated from the storage data. The recovery of the analyte from the collection device must be at least 75% following storage.

(j) Precision (analytical method only).

The pooled coefficient of variation obtained from replicate determinations of analytical standards over the range of 0.6 to 2 times the target concentration was 0.011.

(k) Precision (overall procedure).

The precision at the 95% confidence level for the refrigerated temperature storage test was +/- 12.7%. This value includes an additional +/- 5% for sampling error. The overall procedure must provide results at the target concentrations that are +/- 25% at the 95% confidence level.

(l) Reproducibility.

Samples collected from a controlled test atmosphere and a draft copy of this procedure were given to a chemist unassociated with this evaluation. The average recovery was 97.2% and the standard deviation was 6.2%.

(2) Sampling procedure.

(a) Apparatus. Samples are collected by use of a personal sampling pump that can be calibrated to within +/- 5% of the recommended 0.05 L/min sampling rate with the sampling tube in line.

(b) Samples are collected with laboratory prepared sampling tubes. The sampling tube is constructed of silane-treated glass and is about 5-cm long. The ID is 4 mm and the OD is 6 mm. One end of the tube is tapered so that a glass wool end plug will hold the contents of the tube in place during sampling. The opening in the tapered end of the sampling tube is at least one-half the ID of the tube (2 mm). The other end of the sampling tube is open to its full 4-mm ID to facilitate packing of the tube. Both ends of the tube are fire-polished for safety. The tube is packed with 2 sections of pretreated charcoal which has been coated with TBC. The tube is packed with a 50-mg backup section, located nearest the tapered end, and with a 100-mg sampling section of charcoal. The two sections of coated adsorbent are separated and retained with small plugs of silanized glass wool. Following packing, the sampling tubes are sealed with two 7/32 inch OD plastic end caps. Instructions for the pretreatment and coating of the charcoal are presented in Section 4.1 of this method.

(c) Reagents.

None required.

(d) Technique.

(i) Properly label the sampling tube before sampling and then remove the plastic end caps.

(ii) Attach the sampling tube to the pump using a section of flexible plastic tubing such that the larger front section of the sampling tube is exposed directly to the atmosphere. Do not place any tubing ahead of the sampling tube. The sampling tube should be attached in the worker's breathing zone in a vertical manner such that it does not impede work performance.

(iii) After sampling for the appropriate time, remove the sampling tube from the pump and then seal the tube with plastic end caps. Wrap the tube lengthwise.

(iv) Include at least one blank for each sampling set. The blank should be handled in the same manner as the samples with the exception that air is not drawn through it.

(v) List any potential interferences on the sample data sheet.

(vi) The samples require no special shipping precautions under normal conditions. The samples should be refrigerated if they are to be exposed to higher than normal ambient temperatures. If the samples are to be stored before they are shipped to the laboratory, they should be kept in a freezer. The samples should be placed in a freezer upon receipt at the laboratory.

(e) Breakthrough.

(Breakthrough was defined as the relative amount of analyte found on the backup section of the tube in relation to the total amount of analyte collected on the sampling tube. Five-percent breakthrough occurred after sampling a test atmosphere containing 2.0 ppm BD for 90 min. at 0.05 L/min. At the end of this time 4.5 L of air had been sampled and 20.1 ug of the analyte was collected. The relative humidity of the sampled air was 80% at 23 deg. C.)

Breakthrough studies have shown that the recommended sampling procedure can be used at air concentrations higher than the target concentration. The sampling time, however, should be reduced to 45 min. if both the expected BD level and the relative humidity of the sampled air are high.

(f) Desorption efficiency.

The average desorption efficiency for BD from TBC coated charcoal over the range from 0.6 to 2 times the target concentration was 96.4%. The efficiency was essentially constant over the range studied.

(g) Recommended air volume and sampling rate.

(h) The recommended air volume is 3 L.

(i) The recommended sampling rate is 0.05 L/min. for 1 hour.

(j) Interferences.

There are no known interferences to the sampling method.

(k) Safety precautions.

(i) Attach the sampling equipment to the worker in such a manner that it will not interfere with work performance or safety.

(ii) Follow all safety practices that apply to the work area being sampled.

(3) Analytical procedure.

(a) Apparatus.

(i) A gas chromatograph (GC), equipped with a flame ionization detector (FID).(2)

Footnote(2) A Hewlett-Packard Model 5840A GC was used for this evaluation. Injections were performed using a Hewlett-Packard Model 7671A automatic sampler.

(ii) A GC column capable of resolving the analytes from any interference.(3)

Footnote(3) A 20-ft x 1/8-inch OD stainless steel GC column containing 20% FFAP on 80/100 mesh Chromabsorb W-AW-DMCS was used for this evaluation.

(iii) Vials, glass 2-mL with Teflon-lined caps.

(iv) Disposable Pasteur-type pipets, volumetric flasks, pipets and syringes for preparing samples and standards, making dilutions and performing injections.

(b) Reagents.

(i) Carbon disulfide.(4)

Footnote(4) Fisher Scientific Company A.C.S. Reagent Grade solvent was used in this evaluation.

The benzene contaminant that was present in the carbon disulfide was used as an internal standard (ISTD) in this evaluation.

(ii) Nitrogen, hydrogen and air, GC grade.

(iii) BD of known high purity.(5)

Footnote(5) Matheson Gas Products, CP Grade 1,3-butadiene was used in this study.

(c) Standard preparation.

(i) Prepare standards by diluting known volumes of BD gas with carbon disulfide. This can be accomplished by injecting the appropriate volume of BD into the headspace above the 1-mL of carbon disulfide contained in sealed 2-mL vial. Shake the vial after the needle is removed from the septum.(6)

Footnote(6) A standard containing 7.71 ug/mL (at ambient temperature and pressure) was prepared by diluting 4 uL of the gas with 1-mL of carbon disulfide.

(ii) The mass of BD gas used to prepare standards can be determined by use of the following equations:

$$MV=(760/BP)(273+t)/(273)(22.41)$$

Where:

MV = ambient molar volume BP = ambient barometric pressure T = ambient temperature ug/uL  
= 54.09/MV ug/standard = (ug/uL)(uL) BD used to prepare the standard

(d) Sample preparation.

(i) Transfer the 100-mg section of the sampling tube to a 2-mL vial. Place the 50-mg section in a separate vial. If the glass wool plugs contain a significant amount of charcoal, place them with the appropriate sampling tube section.

(ii) Add 1-mL of carbon disulfide to each vial.

(iii) Seal the vials with Teflon-lined caps and then allow them to desorb for one hour. Shake the vials by hand vigorously several times during the desorption period.

(iv) If it is not possible to analyze the samples within 4 hours, separate the carbon disulfide from the charcoal, using a disposable Pasteur-type pipet, following the one hour. This separation will improve the stability of desorbed samples.

(v) Save the used sampling tubes to be cleaned and repacked with fresh adsorbent.

(e) Analysis.

(i) GC Conditions.

Column temperature: 95 deg. C

Injector temperature: 180 deg. C

Detector temperature: 275 deg. C

Carrier gas flow rate: 30 mL/min.

Injection volume: 0.80 uL

GC column: 20-ft x 1/8-in OD stainless steel GC column containing 20%

FFAP on 80/100 Chromabsorb W-AW-DMCS.

(ii) Chromatogram. See Section 4.2.

(iii) Use a suitable method, such as electronic or peak heights, to measure detector response.

(iv) Prepare a calibration curve using several standard solutions of different concentrations. Prepare the calibration curve daily. Program the integrator to report the results in ug/mL.

(v) Bracket sample concentrations with standards.

(f) Interferences (analytical).

(i) Any compound with the same general retention time as the analyte and which also gives a detector response is a potential interference. Possible interferences should be reported by the industrial hygienist to the laboratory with submitted samples.

(ii) GC parameters (temperature, column, etc.) may be changed to circumvent interferences.

(iii) A useful means of structure designation is GC/MS. It is recommended that this procedure be used to confirm samples whenever possible.

(g) Calculations.

(i) Results are obtained by use of calibration curves. Calibration curves are prepared by plotting detector response against concentration for each standard. The best line through the data points is determined by curve fitting.

(ii) The concentration, in ug/mL, for a particular sample is determined by comparing its detector response to the calibration curve. If any analyte is found on the backup section, this amount is added to the amount found on the front section. Blank corrections should be performed before adding the results together.

(iii) The BD air concentration can be expressed using the following equation:

$$\text{mg/m}(3)=(A)(B)/(C)(D)$$

Where:

A = ug/mL from Section 3.7.2 B = volume C = L of air sampled D = efficiency

(iv) The following equation can be used to convert results in mg/m(3) to ppm:

$$\text{ppm}=(\text{mg/m}(3))(24.46)/54.09$$

Where:

mg/m(3) = result from Section 3.7.3. 24.46 = molar volume of an ideal gas at 760 mm Hg and 25 deg. C.

(h) Safety precautions (analytical).

(i) Avoid skin contact and inhalation of all chemicals.

(ii) Restrict the use of all chemicals to a fume hood whenever possible.

(iii) Wear safety glasses and a lab coat in all laboratory areas.

(4) Additional Information.

(a) A procedure to prepare specially cleaned charcoal coated with TBC.

(i) Apparatus.

(A) Magnetic stirrer and stir bar.

(B) Tube furnace capable of maintaining a temperature of 700 deg. C and equipped with a quartz tube that can hold 30 g of charcoal.(8)

Footnote(8) A Lindberg Type 55035 Tube furnace was used in this evaluation.

(C) A means to purge nitrogen gas through the charcoal inside the quartz tube.

(D) Water bath capable of maintaining a temperature of 60 deg. C.

(E) Miscellaneous laboratory equipment: One-liter vacuum flask, 1-L Erlenmeyer flask, 350-M1 Buchner funnel with a coarse fitted disc, 4-oz brown bottle, rubber stopper, Teflon tape etc.

(ii) Reagents.

(A) Phosphoric acid, 10% by weight, in water.(9)

Footnote(9) Baker Analyzed Reagent grade was diluted with water for use in this evaluation.

(B) 4-tert-Butylcatechol (TBC).(10)

Footnote(10) The Aldrich Chemical Company 99% grade was used in this evaluation.

(C) Specially cleaned coconut shell charcoal, 20/40 mesh.(11)

Footnote(11) Specially cleaned charcoal was obtained from Supelco, Inc. for use in this evaluation. The cleaning process used by Supelco is proprietary.

(D) Nitrogen gas, GC grade.

(iii) Procedure.

Weigh 30g of charcoal into a 500-mL Erlenmeyer flask. Add about 250 mL of 10% phosphoric acid to the flask and then swirl the mixture. Stir the mixture for 1 hour using a magnetic stirrer. Filter the mixture using a fitted Buchner funnel. Wash the charcoal several times with 250-mL portions of deionized water to remove all traces of the acid. Transfer the washed charcoal to the tube furnace quartz tube. Place the quartz tube in the furnace and then connect the nitrogen gas purge to the tube. Fire the charcoal to 700 deg. C. Maintain that temperature for at least 1 hour. After the charcoal has cooled to room temperature, transfer it to a tared beaker. Determine the weight of the charcoal and then add an amount of TBC which is 10% of the charcoal, by weight.

CAUTION-TBC is toxic and should only be handled in a fume hood while wearing gloves.

Carefully mix the contents of the beaker and then transfer the mixture to a 4-oz bottle. Stopper the bottle with a clean rubber stopper which has been wrapped with Teflon tape. Clamp the bottle in a water bath so that the water level is above the charcoal level. Gently heat the bath to 60 deg. C and then maintain that temperature for 1 hour. Cool the charcoal to room temperature and then transfer the coated charcoal to a suitable container.

The coated charcoal is now ready to be packed into sampling tubes. The sampling tubes should be stored in a sealed container to prevent contamination. Sampling tubes should be stored in the dark at room temperature. The sampling tubes should be segregated by coated adsorbent lot number.

(b) Chromatograms.

The chromatograms were obtained using the recommended analytical method. The chart speed was set at 1

cm/min. for the first three min. and then at 0.2 cm/min. for the time remaining in the analysis.

The peak which elutes just before BD is a reaction product between an impurity on the charcoal and TBC. This peak is always present, but it is easily resolved from the analyte. The peak which elutes immediately before benzene is an oxidation product of TBC.

(5) References.

(a) "Current Intelligence Bulletin 41, 1,3-Butadiene", U.S. Dept. of Health and Human Services, Public Health Service, Center for Disease Control, NIOSH.

(b) "NIOSH Manual of Analytical Methods", 2nd ed.; U.S. Dept. of Health Education and Welfare, National Institute for Occupational Safety and Health: Cincinnati, OH, 1977, Vol. 2, Method No. S91 DHEW (NIOSH) Publ. (U.S.), No. 77-157-B.

(c) Hawley, G.C., Ed. "The Condensed Chemical Dictionary", 8th ed.; Van Nostrand Rienhold Company: New York, 1971; 139.5.4. Chem. Eng. News (June 10, 1985), (63), 22-66.

Appendix E: Respirator Fit Testing Procedures (Mandatory)

A. The Employer Shall Conduct Fit Testing Using the Following Procedures.

These provisions apply to both QLFT and QNFT.

1. The test subject shall be allowed to pick the most comfortable respirator from a selection of respirators of various sizes and models.

2. Prior to the selection process, the test subject shall be shown how to put on a respirator, how it should be positioned on the face, how to set strap tension and how to determine a comfortable fit. A mirror shall be available to assist the subject in evaluating the fit and positioning the respirator. This instruction may not constitute the subject's formal training on respirator use, because it is only a review.

3. The test subject shall be informed that he/she is being asked to select the respirator which provides the most comfortable fit. Each respirator represents a different size and shape, and if fitted and used properly, will provide adequate protection.

4. The test subject shall be instructed to hold each chosen facepiece up to the face and eliminate those which obviously do not give a comfortable fit.

5. The more comfortable facepieces are noted; the most comfortable mask is donned and worn at least five minutes to assess comfort. Assistance in assessing comfort can be given by discussing the points in item 6 below. If the test subject is not familiar with using a particular respirator, the test subject shall be directed to don the mask several times and to adjust the straps each time to become adept at setting proper tension on the straps.

6. Assessment of comfort shall include reviewing the following points with the test subject and allowing the test subject adequate time to determine the comfort of the respirator:

(a) Position of the mask on the nose.

(b) Room for eye protection.

(c) Room to talk.

(d) Position of mask on face and cheeks.

7. The following criteria shall be used to help determine the adequacy of the respirator fit:

- (a) Chin properly placed;
- (b) Adequate strap tension, not overly tightened;
- (c) Fit across nose bridge;
- (d) Respirator of proper size to span distance from nose to chin;
- (e) Tendency of respirator to slip;
- (f) Self-observation in mirror to evaluate fit and respirator position.

8. The test subject shall conduct the negative and positive pressure fit checks using procedures in Appendix A or those recommended by the respirator manufacturer. Before conducting the negative or positive pressure fit checks, the subject shall be told to seat the mask on the face by moving the head from side-to-side and up and down slowly while taking in a few slow deep breaths. Another facepiece shall be selected and retested if the test subject fails the fit check tests.

9. The test shall not be conducted if there is any hair growth between the skin and the facepiece sealing surface, such as stubble beard growth, beard, or sideburns which cross the respirator sealing surface. Any type of apparel which interferes with a satisfactory fit shall be altered or removed.

10. If a test subject exhibits difficulty in breathing during the tests, she or he shall be referred to a physician to determine whether the test subject can wear a respirator while performing her or his duties.

11. If the employee finds the fit of the respirator unacceptable, the test subject shall be given the opportunity to select a different respirator and to be retested.

12. Exercise regimen. Prior to the commencement of the fit test, the test subject shall be given a description of the fit test and the test subject's responsibilities during the test procedure. The description of the process shall include a description of the test exercises that the subject will be performing. The respirator to be tested shall be worn for at least 5 minutes before the start of the fit test.

13. Test Exercises. The test subject shall perform exercises, in the test environment, while wearing any applicable safety equipment that may be worn during actual respirator use which could interfere with fit, in the manner described below:

(a) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally.

(b) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply, taking caution so as to not hyperventilate.

(c) Turning head side to side. Standing in place, the subject shall slowly turn his/her head from side to side between the extreme positions on each side. The head shall be held at each extreme momentarily so the subject can inhale at each side.

(d) Moving head up and down. Standing in place, the subject shall slowly move his/her head up and down. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(e) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from 100, or recite a memorized poem or song.

Rainbow Passage

When the sunlight strikes raindrops in the air, they act like a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is, according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond reach, his friends say he is looking for the pot of gold at the end of the rainbow.

(f) Grimace. The test subject shall grimace by smiling or frowning. (Only for QNFT testing, not performed for QLFT)

(g) Bending over. The test subject shall bend at the waist as if he/she were to touch his/her toes. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(h) Normal breathing. Same as exercise (a). Each test exercise shall be performed for one minute except for the grimace exercise which shall be performed for 15 seconds.

The test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

#### B. Qualitative Fit Test (QLFT) Protocols

##### 1. General

(a) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator qualitative fit test program.

(b) The employer shall ensure that persons administering QLFT are able to prepare test solutions, calibrate equipment and perform tests properly, recognize invalid tests, and assure that test equipment is in proper working order.

(c) The employer shall assure that QLFT equipment is kept clean and well maintained so as to operate within the parameters for which it was designed.

##### 2. Isoamyl Acetate Protocol

###### (a) Odor threshold screening.

The odor threshold screening test, performed without wearing a respirator, is intended to determine if the individual tested can detect the odor of isoamyl acetate.

(1) Three 1 liter glass jars with metal lids are required.

(2) Odor free water (e.g. distilled or spring water) at approximately 25 degrees C shall be used for the solutions.

(3) The isoamyl acetate (IAA) (also known as isopentyl acetate) stock solution is prepared by adding 1 cc of pure IAA to 800 cc of odor free water in a 1 liter jar and shaking for 30 seconds. A new solution shall be prepared at least weekly.

(4) The screening test shall be conducted in a room separate from the room used for actual fit testing. The two rooms shall be well ventilated to prevent the odor of IAA from becoming evident in the general room air where testing takes place.

(5) The odor test solution is prepared in a second jar by placing 0.4 cc of the stock solution into 500 cc of odor free water using a clean dropper or pipette. The solution shall be shaken for 30 seconds and allowed to stand for two to three minutes so that the IAA concentration above the liquid may reach equilibrium. This solution shall be used for only one day.

(6) A test blank shall be prepared in a third jar by adding 500 cc of odor free water.

(7) The odor test and test blank jars shall be labeled 1 and 2 for jar identification. Labels shall be placed on the lids so they can be periodically peeled off and switched to maintain the integrity of the test.

(8) The following instruction shall be typed on a card and placed on the table in front of the two test jars (i.e., 1 and 2): "The purpose of this test is to determine if you can smell banana oil at a low concentration. The two bottles in front of you contain water. One of these bottles also contains a small amount of banana oil. Be sure the covers are on tight, then shake each bottle for two seconds. Unscrew the lid of each bottle, one at a time, and sniff at the mouth of the bottle. Indicate to the test conductor which bottle contains banana oil."

(9) The mixtures used in the IAA odor detection test shall be prepared in an area separate from where the test is performed, in order to prevent olfactory fatigue in the subject.

(10) If the test subject is unable to correctly identify the jar containing the odor test solution, the IAA qualitative fit test shall not be performed.

(11) If the test subject correctly identifies the jar containing the odor test solution, the test subject may proceed to respirator selection and fit testing.

(b) Isoamyl acetate fit test

(1) The fit test chamber shall be similar to a clear 55-gallon drum liner suspended inverted over a 2-foot diameter frame so that the top of the chamber is about 6 inches above the test subject's head. The inside top center of the chamber shall have a small hook attached.

(2) Each respirator used for the fitting and fit testing shall be equipped with organic vapor cartridges or offer protection against organic vapors.

(3) After selecting, donning, and properly adjusting a respirator, the test subject shall wear it to the fit testing room. This room shall be separate from the room used for odor threshold screening and respirator selection, and shall be well ventilated, as by an exhaust fan or lab hood, to prevent general room contamination.

(4) A copy of the test exercises and any prepared text from which the subject is to read shall be taped to the inside of the test chamber.

(5) Upon entering the test chamber, the test subject shall be given a 6-inch by 5-inch piece of paper towel, or other porous, absorbent, single-ply material, folded in half and wetted with 0.75 cc of pure IAA. The test subject shall hang the wet towel on the hook at the top of the chamber.

(6) Allow two minutes for the IAA test concentration to stabilize before starting the fit test exercises. This would be an appropriate time to talk with the test subject; to explain the fit test, the importance of his/her cooperation, and the purpose for the test exercises; or to demonstrate some of the exercises.

(7) If at any time during the test, the subject detects the banana like odor of IAA, the test is failed. The subject shall quickly exit from the test chamber and leave the test area to avoid olfactory fatigue.

(8) If the test is failed, the subject shall return to the selection room and remove the respirator. The test subject shall repeat the odor sensitivity test, select and put on

another respirator, return to the test area and again begin the fit test procedure described in (1) through (7) above. The process continues until a respirator that fits well has been found. Should the odor sensitivity test be failed, the subject shall wait about 5 minutes before retesting. Odor sensitivity will usually have returned by this time.

(9) When the subject wearing the respirator passes the test, its efficiency shall be demonstrated for the subject by having the subject break the face seal and take a breath before exiting the chamber.

(10) When the test subject leaves the chamber, the subject shall remove the saturated towel and return it to the person conducting the test, so there is no significant IAA concentration buildup in the chamber during subsequent tests. The used towels shall be kept in a self-sealing bag to keep the test area from being contaminated.

### 3. Saccharin Solution Aerosol Protocol

The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(a) Taste threshold screening. The saccharin taste threshold screening, performed without wearing a respirator, is intended to determine whether the individual being tested can detect the taste of saccharin.

(1) During threshold screening as well as during fit testing, subjects shall wear an enclosure about the head and shoulders that is approximately 12 inches in diameter by 14 inches tall with at least the front portion clear and that allows free movements of the head when a respirator is worn. An enclosure substantially similar to the 3M hood assembly, parts # FT 14 and # FT 15 combined, is adequate.

(2) The test enclosure shall have a 3/4-inch hole in front of the test subject's nose and mouth area to accommodate the nebulizer nozzle.

(3) The test subject shall don the test enclosure. Throughout the threshold screening test, the test subject shall breathe through his/her slightly open mouth with tongue extended.

(4) Using a DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent the test conductor shall spray the threshold check solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the fit test solution nebulizer.

(5) The threshold check solution consists of 0.83 grams of sodium saccharin USP in 100 ml of warm water. It can be prepared by putting 1 ml of the fit test solution (see (b)(5) below) in 100 ml of distilled water.

(6) To produce the aerosol, the nebulizer bulb is firmly squeezed so that it collapses completely, then released and allowed to fully expand.

(7) Ten squeezes are repeated rapidly and then the test subject is asked whether the saccharin can be tasted.

(8) If the first response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(9) If the second response is negative, ten more squeezes are repeated rapidly and the test subject is again asked whether the saccharin is tasted.

(10) The test conductor will take note of the number of squeezes required to solicit a taste response.

(11) If the saccharin is not tasted after 30 squeezes (step 10), the test subject may not perform the saccharin fit test.

(12) If a taste response is elicited, the test subject shall be asked to take note of the taste for reference in the fit test.

(13) Correct use of the nebulizer means that approximately 1 ml of liquid is used at a time in the nebulizer body.

(14) The nebulizer shall be thoroughly rinsed in water, shaken dry, and refilled at least each morning and afternoon or at least every four hours.

(b) Saccharin solution aerosol fit test procedure

(1) The test subject may not eat, drink (except plain water), smoke, or chew gum for 15 minutes before the test.

(2) The fit test uses the same enclosure described in (a) above.

(3) The test subject shall don the enclosure while wearing the respirator selected in section (a) above. The respirator shall be properly adjusted and equipped with a particulate filter(s).

(4) A second DeVilbiss Model 40 Inhalation Medication Nebulizer or equivalent is used to spray the fit test solution into the enclosure. This nebulizer shall be clearly marked to distinguish it from the screening test solution nebulizer.

(5) The fit test solution is prepared by adding 83 grams of sodium saccharin to 100 ml of warm water.

(6) As before, the test subject shall breathe through the slightly open mouth with tongue extended.

(7) The nebulizer is inserted into the hole in the front of the enclosure and the fit test solution is sprayed into the enclosure using the same number of squeezes required to elicit a taste response in the screening test. A minimum of 10 squeezes is required.

(8) After generating the aerosol the test subject shall be instructed to perform the exercises in section A. 13 above.

(9) Every 30 seconds the aerosol concentration shall be replenished using one half the number of squeezes as initially.

(10) The test subject shall indicate to the test conductor if at any time during the fit test the taste of saccharin is detected.

(11) If the taste of saccharin is detected, the fit is deemed unsatisfactory and a different respirator shall be tried.

4. Irritant Fume Protocol

(a) The respirator to be tested shall be equipped with high-efficiency particulate air (HEPA) filters.

(b) No form of test enclosure or hood for the test subject shall be used.

(c) The test subject shall be allowed to smell a weak concentration of the irritant smoke before the respirator is donned to become familiar with its irritating properties.

(d) Break both ends of a ventilation smoke tube containing stannic chloride. Attach one end of the smoke tube to an aspirator squeeze bulb and cover the other end with a short piece of tubing to prevent potential injury from the jagged end of the smoke tube.

(d) Advise the test subject that the smoke can be irritating to the eyes and instruct the subject to keep his/her eyes closed while the test is performed.

(e) The test conductor shall direct the stream of irritant smoke from the smoke tube towards the face seal area of the test subject. He/She shall begin at least 12 inches from the facepiece and gradually move to within one inch, moving around the whole perimeter of the mask.

(f) The exercises identified in section A. 13 above shall be performed by the test subject while the respirator seal is being challenged by the smoke.

(g) Each test subject passing the smoke test without evidence of a response (involuntary cough) shall be given a sensitivity check of the smoke from the same tube once the respirator has been removed to determine whether he/she reacts to the smoke. Failure to evoke a response shall void the fit test.

(h) The fit test shall be performed in a location with exhaust ventilation sufficient to prevent general contamination of the testing area by the test agent.

C. Quantitative Fit Test (QNFT) Protocols

The following quantitative fit testing procedures have been demonstrated to be acceptable.

(1) Quantitative fit testing using a non-hazardous challenge aerosol (such as corn oil or sodium chloride) generated in a test chamber, and employing instrumentation to quantify the fit of the respirator.

(2) Quantitative fit testing using ambient aerosol as the challenge agent and appropriate instrumentation (condensation nuclei counter) to quantify the respirator fit.

(3) Quantitative fit testing using controlled negative pressure and appropriate instrumentation to measure the volumetric leak rate of a facepiece to quantify the respirator fit.

1. General

(a) The employer shall assign specific individuals who shall assume full responsibility for implementing the respirator quantitative fit test program.

(b) The employer shall ensure that persons administering QNFT are able to calibrate equipment and perform tests properly, recognize invalid tests, calculate fit factors properly and assure that test equipment is in proper working order.

(c) The employer shall assure that QNFT equipment is kept clean, maintained and calibrated according to the manufacturer's instructions so as to operate at the parameters for which it was designed.

2. Generated aerosol quantitative fit testing protocol Apparatus

(a) Instrumentation. Aerosol generation, dilution, and measurement systems using particulates (corn oil or sodium chloride) or gases or vapors as test aerosols shall be used for quantitative fit testing.

(b) Test chamber. The test chamber shall be large enough to permit all test subjects to perform freely all required exercises without disturbing the challenge agent concentration or the measurement apparatus. The test chamber shall be equipped and constructed so that the challenge agent is effectively isolated from the ambient air, yet uniform in concentration throughout the chamber.

(c) When testing air-purifying respirators, the normal filter or cartridge element shall be replaced with a high-efficiency particulate air (HEPA) filter supplied by the same manufacturer in the case of particulate QNFT aerosols or a sorbent offering contaminant penetration protection equivalent to high-efficiency filters where the QNFT test agent is a gas or vapor.

(d) The sampling instrument shall be selected so that a computer record or strip chart record may be made of the test showing the rise and fall of the challenge agent concentration with each inspiration and expiration at fit factors of

at least 2,000. Integrators or computers which integrate the amount of test agent penetration leakage into the respirator for each exercise may be used provided a record of the readings is made.

(e) The combination of substitute air-purifying elements, challenge agent and challenge agent concentration shall be such that the test subject is not exposed in excess of an established exposure limit for the challenge agent at any time during the testing process based upon the length of the exposure and the exposure limit duration.

(f) The sampling port on the test specimen respirator shall be placed and constructed so that no leakage occurs around the port (e.g. where the respirator is probed), a free air flow is allowed into the sampling line at all times and so that there is no interference with the fit or performance of the respirator. The in-mask sampling device (probe) shall be designed and used so that the air sample is drawn from the breathing zone of the test subject, midway between the nose and mouth and with the probe extending into the facepiece cavity at least 1/4 inch.

(g) The test set up shall permit the person administering the test to observe the test subject inside the chamber during the test.

(h) The equipment generating the challenge atmosphere shall maintain the concentration of challenge agent constant to within a 10 percent variation for the duration of the test.

(i) The time lag (interval between an event and the recording of the event on the strip chart or computer or integrator) shall be kept to a minimum. There shall be a clear association between the occurrence of an event and its being recorded.

(j) The sampling line tubing for the test chamber atmosphere and for the respirator sampling port shall be of equal diameter and of the same material. The length of the two lines shall be equal.

(k) The exhaust flow from the test chamber shall pass through a high-efficiency filter before release.

(l) When sodium chloride aerosol is used, the relative humidity inside the test chamber shall not exceed 50 percent.

(m) The limitations of instrument detection shall be taken into account when determining the fit factor.

(n) Test respirators shall be maintained in proper working order and inspected for deficiencies such as cracks, missing valves and gaskets, etc.

3. Procedural Requirements

(a) When performing the initial positive or negative pressure fit check the sampling line shall be crimped closed in order to avoid air pressure leakage during either of these fit checks.

(b) The use of an abbreviated screening QLFT test is optional and may be utilized in order to quickly identify poor fitting respirators which passed the positive and/or negative pressure test and thus reduce the amount of QNFT time. The use of the CNC QNFT instrument in the count mode is another optional method to use to obtain a quick estimate of fit and eliminate poor fitting respirators before going on to perform a full QNFT.

(c) A reasonably stable challenge agent concentration shall be measured in the test chamber prior to testing. For canopy or shower curtain type of test units the determination of the challenge agent stability may be established after the test subject has entered the test environment.

(d) Immediately after the subject enters the test chamber, the challenge agent concentration inside the respirator shall be measured to ensure that the peak penetration does not exceed 5 percent for a half mask or 1 percent for a full facepiece respirator.

(e) A stable challenge concentration shall be obtained prior to the actual start of testing.

(f) Respirator restraining straps shall not be over tightened for testing. The straps shall be adjusted by the wearer without assistance from other persons to give a reasonably comfortable fit typical of normal use.

(g) The test shall be terminated whenever any single peak penetration exceeds 5 percent for half masks and 1 percent for full facepiece respirators. The test subject shall be refitted and retested.

(h) Calculation of fit factors.

(1) The fit factor shall be determined for the quantitative fit test by taking the ratio of the average chamber concentration to the concentration measured inside the respirator for each test exercise except the grimace exercise.

(2) The average test chamber concentration shall be calculated as the arithmetic average of the concentration measured before and after each test (i.e. 8 exercises) or the arithmetic average of the concentration measured before and after each exercise or the true average measured continuously during the respirator sample.

(3) The concentration of the challenge agent inside the respirator shall be determined by one of the following methods:

(i) Average peak penetration method means the method of determining test agent penetration into the respirator utilizing a strip chart recorder, integrator, or computer. The agent penetration is determined by an average of the peak heights on the graph or by computer integration, for each exercise except the grimace exercise. Integrators or computers which calculate the actual test agent penetration into the respirator for each exercise will also be considered to meet the requirements of the average peak penetration method.

(ii) Maximum peak penetration method means the method of determining test agent penetration in the respirator as determined by strip chart recordings of the test. The highest peak penetration for a given exercise is taken to be representative of average penetration into the respirator for that exercise.

(iii) Integration by calculation of the area under the individual peak for each exercise except the grimace exercise. This includes computerized integration.

(iv) The calculation of the overall fit factor using individual exercise fit factors involves first converting the exercise fit factors to penetration values, determining the average, and then converting that result back to a fit factor. This procedure is described in the following equation:

$$\text{Overall Fit Factor} = \frac{\text{Number of exercises}}{1/ff(1)+1/ff(2)+1/ff(3)+1/ff(4)+1/ff(5)+1/ff(7)+1/ff(8)}$$

where ff(1), ff(2), ff(3), etc. are the fit factors for exercise 1,2,3, etc. (Results of the grimace exercise (7) are not used in this calculation.)

(j) The test subject shall not be permitted to wear a half mask or quarter facepiece respirator unless a minimum fit

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factor of 100 is obtained, or a full facepiece respirator unless a minimum fit factor of 500 is obtained.

(k) Filters used for quantitative fit testing shall be replaced whenever increased breathing resistance is encountered, or when the test agent has altered the integrity of the filter media. Organic vapor cartridges/canisters shall be replaced if there is any indication of breakthrough by a test agent.

4. Ambient aerosol condensation nuclei counter (CNC) quantitative fit testing protocol

The ambient aerosol condensation nuclei counter (CNC) quantitative fit testing (Portacount(TM)) protocol quantitatively fit tests respirators with the use of a probe. The probed respirator is only used for quantitative fit tests. A probed respirator has a special sampling device, installed on the respirator, that allows the probe to sample the air from inside the mask. A probed respirator is required for each make, model, and size in which your company requires and can be obtained from the respirator manufacturer or distributor. The CNC instrument manufacturer Dynatech Nevada also provides probe attachments (TSI sampling adapters) that permits fit testing in an employee's own respirator. A fit factor pass level of 100 is necessary for a half-mask respirator and a fit factor of at least 10 times greater than the assigned protection factor for any other negative pressure respirator. The Agency does not recommend the use of homemade sampling adapters. The entire screening and testing procedure shall be explained to the test subject prior to the conduct of the screening test.

(a) Portacount Fit Test Requirements.

(1) Check the respirator to make sure the respirator is fitted with a high efficiency filter and that the sampling probe and line are properly attached to the facepiece.

(2) Instruct the person to be tested to don the respirator several minutes before the fit test starts. This purges the particles inside the respirator and permits the wearer to make certain the respirator is comfortable. This individual should have already been trained on how to wear the respirator properly.

(3) Check the following conditions for the adequacy of the respirator fit: Chin properly placed; Adequate strap tension, not overly tightened; Fit across nose bridge; Respirator of proper size to span distance from nose to chin; Tendencies for the respirator to slip; Self-observation in a mirror to evaluate fit and respirator position.

(4) Have the person wearing the respirator do a fit check. If leakage is detected, determine the cause. If leakage is from a poorly fitting facepiece, try another size of the same type of respirator.

(5) Follow the instructions for operating the Portacount and proceed with the test.

(b) Portacount Test Exercises.

(1) Normal breathing. In a normal standing position, without talking, the subject shall breathe normally for 1 minute.

(2) Deep breathing. In a normal standing position, the subject shall breathe slowly and deeply for 1 minute, taking caution so as not to hyperventilate.

(3) Turning head side to side. Standing in place, the subject shall slowly turn his or her head from side to side between the extreme positions on each side for 1 minute.

The head shall be held at each extreme momentarily so the subject can inhale at each side.

(4) Moving head up and down. Standing in place, the subject shall slowly move his or her head up and down for 1 minute. The subject shall be instructed to inhale in the up position (i.e., when looking toward the ceiling).

(5) Talking. The subject shall talk out loud slowly and loud enough so as to be heard clearly by the test conductor. The subject can read from a prepared text such as the Rainbow Passage, count backward from 100, or recite a memorized poem or song for 1 minute.

(6) Grimace. The test subject shall grimace by smiling or frowning for 15 seconds.

(7) Bending Over. The test subject shall bend at the waist as if he or she were to touch his or her toes for 1 minute. Jogging in place shall be substituted for this exercise in those test environments such as shroud type QNFT units which prohibit bending at the waist.

(8) Normal Breathing. Remove and re-don the respirator within a one-minute period. Then, in a normal standing position, without talking, the subject shall breathe normally for 1 minute.

After the test exercises, the test subject shall be questioned by the test conductor regarding the comfort of the respirator upon completion of the protocol. If it has become uncomfortable, another model of respirator shall be tried.

(c) Portacount Test Instrument.

(1) The Portacount will automatically stop and calculate the overall fit factor for the entire set of exercises. The overall fit factor is what counts. The Pass or Fail message will indicate whether or not the test was successful. If the test was a Pass, the fit test is over.

(2) A record of the test needs to be kept on file assuming the fit test was successful. The record must contain the test subject's name; overall fit factor; make, model and size of respirator used, and date tested.

APPENDIX F, MEDICAL QUESTIONNAIRES, (Non-mandatory)

1,3-Butadiene (BD) Initial Health Questionnaire

DIRECTIONS:

You have been asked to answer the questions on this form because you work with BD (butadiene). These questions are about your work, medical history, and health concerns. Please do your best to answer all of the questions. If you need help, please tell the doctor or health care professional who reviews this form.

This form is a confidential medical record. Only information directly related to your health and safety on the job may be given to your employer. Personal health information will not be given to anyone without your consent.

Date: \_\_\_\_\_

Name: \_\_\_\_\_ SSN \_\_\_/\_\_\_/\_\_\_  
Last First MI

Job Title: \_\_\_\_\_

Company's Name: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ Supervisor's Phone No.: ( )\_\_-\_\_

Work History

1. Please list all jobs you have had in the past, starting with the job you have now and moving back in time to your first job. (For more space, write on the back of this page.)

Main Job Duty

Year

Company Name

City, State

Chemicals

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

2. Please describe what you do during a typical work day. Be sure to tell about your work with BD.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Please check any of these chemicals that you work with now or have worked with in the past:

- benzene \_\_\_\_\_
- glues \_\_\_\_\_
- toluene \_\_\_\_\_
- inks, dyes \_\_\_\_\_
- other solvents, grease cutters \_\_\_\_\_
- insecticides (like DDT, lindane, etc.) \_\_\_\_\_
- paints, varnishes, thinners, strippers \_\_\_\_\_
- dusts \_\_\_\_\_
- carbon tetrachloride ("carbon tet") \_\_\_\_\_
- arsine \_\_\_\_\_
- carbon disulfide \_\_\_\_\_
- lead \_\_\_\_\_
- cement \_\_\_\_\_
- petroleum products \_\_\_\_\_
- nitrites \_\_\_\_\_

4. Please check the protective clothing or equipment you use at the job you have now:

- gloves \_\_\_\_\_
- coveralls \_\_\_\_\_

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- respirator \_\_\_\_\_
- dust mask \_\_\_\_\_
- safety glasses, goggles \_\_\_\_\_

Please circle your answer.

- 5. Does your protective clothing or equipment fit you properly?    yes no
- 6. Have you ever made changes in your protective clothing or equipment to make it fit better?    yes no
- 7. Have you been exposed to BD when you were not wearing protective clothing or equipment?    yes no
- 8. Where do you eat, drink and/or smoke when you are at work? (Please check all that apply.)

- Cafeteria/restaurant/snack bar \_\_\_\_\_
- Break room/employee lounge \_\_\_\_\_
- Smoking lounge \_\_\_\_\_
- At my work station \_\_\_\_\_

Please circle your answer.

- 9. Have you been exposed to radiation (like x-rays or nuclear material) at the job you have now or at past jobs?    yes no
- 10. Do you have any hobbies that expose you to dusts or chemicals (including paints, glues, etc.)?    yes no
- 11. Do you have any second or side jobs?    yes no
- If yes, what are your duties there?

- 
- 
- 12. Were you in the military?    yes no

    If yes, what did you do in the military? \_\_\_\_\_

Family Health History

1. In the FAMILY MEMBER column, across from the disease name, write which family member, if any, had the disease.

DISEASE	FAMILY MEMBER
Cancer	
Lymphoma	
Sickle Cell Disease or Trait	
Immune Disease	
Leukemia	
Anemia	

2. Please fill in the following information about family health

- Relative
- Alive?
- Age at Death?
- Cause of Death?
- Father
- Mother
- Brother/Sister
- Brother/Sister
- Brother/Sister

Personal Health History

Birth Date \_\_\_/\_\_\_/\_\_\_ Age \_\_\_ Sex \_\_\_ Height\_\_\_ Weight \_\_\_

Please circle your answer.

- 1. Do you smoke any tobacco products?    yes no
- 2. Have you ever had any kind of surgery or operation?    yes no
- If yes, what type of surgery:

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PROPOSED

3. Have you ever been in the hospital for any other reasons?    yes no

If yes, please describe the reason \_\_\_\_\_

4. Do you have any on-going or current medical problems or conditions?    yes no

If yes, please describe: \_\_\_\_\_

5. Do you now have or have you ever had any of the following? Please check all that apply to you.

- unexplained fever            \_\_\_\_\_
- anemia ("low blood")        \_\_\_\_\_
- HIV/AIDS                    \_\_\_\_\_
- weakness                     \_\_\_\_\_
- sickle cell                    \_\_\_\_\_
- miscarriage                  \_\_\_\_\_
- skin rash                     \_\_\_\_\_
- bloody stools                 \_\_\_\_\_
- leukemia/lymphoma          \_\_\_\_\_
- neck mass/swelling          \_\_\_\_\_
- wheezing                     \_\_\_\_\_
- yellowing of skin             \_\_\_\_\_
- bruising easily               \_\_\_\_\_
- lupus                          \_\_\_\_\_
- weight loss                   \_\_\_\_\_
- kidney problems              \_\_\_\_\_
- enlarged lymph nodes        \_\_\_\_\_
- liver disease                 \_\_\_\_\_
- cancer                         \_\_\_\_\_
- infertility                    \_\_\_\_\_
- drinking problems            \_\_\_\_\_
- thyroid problems             \_\_\_\_\_
- night sweats                 \_\_\_\_\_
- chest pain                    \_\_\_\_\_
- still birth                    \_\_\_\_\_
- eye redness                  \_\_\_\_\_
- lumps you can feel            \_\_\_\_\_
- child with birth defect       \_\_\_\_\_
- autoimmune disease          \_\_\_\_\_
- overly tired                 \_\_\_\_\_
- lung problems                \_\_\_\_\_
- rheumatoid arthritis          \_\_\_\_\_
- mononucleosis ("mono")      \_\_\_\_\_
- nagging cough                \_\_\_\_\_

Please circle your answer.

6. Do you have any symptoms or health problems that you think may be related to your work with BD? yes no

If yes, please describe: \_\_\_\_\_

7. Have any of your co-workers had similar symptoms or problems?    yes no don't know

If yes, please describe: \_\_\_\_\_

8. Do you notice any irritation of your eyes, nose, throat, lungs, or skin when working with BD?    yes no

9. Do you notice any blurred vision, coughing, drowsiness, nausea, or headache when working with BD?    yes no

10. Do you take any medications (including birth control or over-the-counter)? yes no

If yes, please list: \_\_\_\_\_

11. Are you allergic to any medication, food, or chemicals? yes no

If yes, please list: \_\_\_\_\_

12. Do you have any health conditions not covered by this questionnaire that you think are affected by your work with BD? yes no

If yes, please explain: \_\_\_\_\_

13. Did you understand all the questions? yes no

\_\_\_\_\_  
Signature

1,3-Butadiene (BD) Health Update Questionnaire

DIRECTIONS:

You have been asked to answer the questions on this form because you work with BD (butadiene). These questions are about your work, medical history, and health concerns. Please do your best to answer all of the questions. If you need help, please tell the doctor or health care professional who reviews this form.

This form is a confidential medical record. Only information directly related to your health and safety on the job may be given to your employer. Personal health information will not be given to anyone without your consent.

Date: \_\_\_\_\_

Name: \_\_\_\_\_ SSN \_\_\_/\_\_\_/\_\_\_  
Last First MI

Job Title: \_\_\_\_\_

Company's Name: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_ Supervisor's Phone No.: ( ) \_\_\_ - \_\_\_

1. Please describe any NEW duties that you have at your job. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Please describe any additional job duties you have:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please circle your answer.

3. Are you exposed to any other chemicals in your work since the last time you were evaluated for exposure to BD? yes no

If yes, please list what they are: \_\_\_\_\_

4. Does your personal protective equipment and clothing fit you properly? yes no

5. Have you made changes in this equipment or clothing to make it fit better? yes no

6. Have you been exposed to BD when you were not wearing protective clothing or equipment? yes no

7. Are you exposed to any NEW chemicals at home or while working on hobbies? yes no

If yes, please list what they are: \_\_\_\_\_

PROPOSED

8. Since your last BD health evaluation, have you started working any new second or side jobs? yes no

If yes, what are your duties there? \_\_\_\_\_

Personal Health History

1. What is your current weight? \_\_\_\_\_ pounds

2. Have you been diagnosed with any new medical conditions or illness since your last evaluation? yes no

If yes, please tell what they are: \_\_\_\_\_

3. Since your last evaluation, have you been in the hospital for any illnesses, injuries, or surgery? yes no

If yes, please describe: \_\_\_\_\_

4. Do you have any of the following? Please place a check for all that apply to you.

- unexplained fever \_\_\_\_\_
- anemia ("low blood") \_\_\_\_\_
- HIV/AIDS \_\_\_\_\_
- weakness \_\_\_\_\_
- sickle cell \_\_\_\_\_
- miscarriage \_\_\_\_\_
- skin rash \_\_\_\_\_
- bloody stools \_\_\_\_\_
- leukemia/lymphoma \_\_\_\_\_
- neck mass/swelling \_\_\_\_\_
- wheezing \_\_\_\_\_
- yellowing of skin \_\_\_\_\_
- bruising easily \_\_\_\_\_
- lupus \_\_\_\_\_
- weight loss \_\_\_\_\_
- kidney problems \_\_\_\_\_
- enlarged lymph nodes \_\_\_\_\_
- liver disease \_\_\_\_\_
- cancer \_\_\_\_\_
- infertility \_\_\_\_\_
- drinking problems \_\_\_\_\_
- thyroid problems \_\_\_\_\_
- night sweats \_\_\_\_\_
- chest pain \_\_\_\_\_
- still birth \_\_\_\_\_
- eye redness \_\_\_\_\_
- lumps you can feel \_\_\_\_\_
- child with birth defect \_\_\_\_\_
- autoimmune disease \_\_\_\_\_
- overly tired \_\_\_\_\_
- lung problems \_\_\_\_\_
- rheumatoid arthritis \_\_\_\_\_
- mononucleosis ("mono") \_\_\_\_\_
- nagging cough \_\_\_\_\_

Please circle your answer.

5. Do you have any symptoms or health problems that you think may be related to your work with BD? yes no

If yes, please describe: \_\_\_\_\_

6. Have any of your co-workers had similar symptoms or problems? yes no don't know

If yes, please describe: \_\_\_\_\_

- 7. Do you notice any irritation of your eyes, nose, throat, lungs, or skin when working with BD?    yes no
- 8. Do you notice any blurred vision, coughing, drowsiness, nausea, or headache when working with BD?    yes no
- 9. Have you been taking any NEW medications (including birth control or over-the-counter)?    yes no

If yes, please list:

\_\_\_\_\_

- 10. Have you developed any new allergies to medications, foods, or chemicals?    yes no

If yes, please list:

\_\_\_\_\_

- 11. Do you have any health conditions not covered by this questionnaire that you think are affected by your work with BD?    yes no

If yes, please explain: \_\_\_\_\_

- 12. Do you understand all the questions?    yes no

\_\_\_\_\_  
Signature

AMENDATORY SECTION (Amending Order 89-06, filed 7/6/89, effective 8/7/89)

**WAC 296-62-075 Air contaminants.** (1) An employee's exposure to any substance listed in Table((s)) 1 ((~~or 2~~)) of WAC 296-62-07515 shall be limited in accordance with the requirements of WAC 296-62-07501 through 296-62-07513.

(2) The following definitions are applicable to the limits in Table((s)) 1 ((~~and 2~~)).

(a) Time weighted average (TWA) is the employee's average airborne exposure to any 8-hour work shift of a 40-hour work week which shall not be exceeded.

(b) Short term exposure limit (STEL) is the employee's 15-minute time weighted average exposure which shall not be exceeded at any time during a work day unless another time limit is specified in a parenthetical notation below the limit. If another time period is specified, the time weighted average exposure over that time period shall not be exceeded at any time during the working day.

(c) Ceiling is the employee's exposure which shall not be exceeded during any part of the work day. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a 15-minute time weighted average exposure which shall not be exceeded at any time over a working day.

(d) The terms "substance," "air contaminant," and "material" are equivalent in meaning for WAC 296-62-075 through 296-62-07515.

~~((3) The transitional limits listed in Table 2 of WAC 296-62-07515 may be utilized to determine the need for engineering controls until December 31, 1992.))~~

AMENDATORY SECTION (Amending Order 89-06, filed 7/6/89, effective 8/7/89)

**WAC 296-62-07501 Airborne contaminants.** (1) Permissible exposure limits (PELs) refer to airborne concentrations of substances without regard to the use of respiratory

protection and represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse effect. Because of wide variation in individual susceptibility, however, a small percentage of workers may experience discomfort from some substances at concentrations at or below the permissible limit, a smaller percentage may be affected more seriously by aggravation of a preexisting condition or by development of an occupational illness.

(2) Permissible exposure limits refer to time-weighted concentrations for an 8-hour workday within a 40-hour workweek which shall not be exceeded.

(a) The cumulative time-weighted average exposure for an 8-hour work shift shall be computed as follows:

$$E = \frac{C_1T_1 + C_2T_2 + \dots + C_nT_n}{8}$$

where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time T where the concentration remains constant.

T is the duration in hours of the exposure at the concentration C.

The value of E shall not exceed the eight-hour time-weighted average (TWA) limit in Table((s)) 1 ((~~or 2~~)) (see WAC 296-62-07515), for the material involved.

(b) To illustrate the formula, assume that substance A has an 8-hour time-weighted average limit of 100 ppm as noted in Table 1 of WAC 296-62-07515. Assume that an employee is subject to the following exposure:

- Two hours exposure at 150 ((~~p/m~~)) ppm
- Two hours exposure at 75 ((~~p/m~~)) ppm
- Four hours exposure at 50 ((~~p/m~~)) ppm

Substituting this information in the formula, we have  $(2 \times 150 + 2 \times 75 + 4 \times 50) \div 8 = 81.25$  ((~~p/m~~)) ppm

PROPOSED

Since 81.25 ppm is less than 100 (~~(p-p-m-))~~ ppm, the 8-hour time-weighted average limit, the exposure is acceptable.

(3) Methods of compliance:

(a) To achieve compliance with these standards, the employer shall determine and implement feasible administrative or engineering controls.

(b) When administrative or engineering controls are not feasible to achieve full compliance, they shall nonetheless be used to reduce exposures to the lowest levels achievable by these controls.

(c) Any control equipment or technical measure utilized for the purpose of complying with WAC 296-62-07501(3) must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used their use shall comply with WAC 296-62-071 through 296-62-07121.

(d) Upon request, the employer shall prepare and submit a written compliance plan to the director. This plan must include a description of the manner in which compliance will be achieved with respect to cited violations of WAC 296-62-07501(3), and shall include proposed abatement methods, anticipated completion dates, and provision for progress reports to be sent to the department.

(4) An employee's exposure to any substance in Table 1 (~~(or-2))~~ (see WAC 296-62-07515) which does not have a ceiling or a specified short-term exposure limit (STEL) shall not exceed the generic STEL which is computed by multiplying the applicable eight-hour time-weighted average (TWA) for the substance by the appropriate multiplier listed below.

Eight-hour TWA	Multiplier
PEL > 0-1	(ppm or mg/M <sup>3</sup> ) x 3
PEL > 1-10	(ppm or mg/M <sup>3</sup> ) x 2
PEL > 10-100	(ppm or mg/M <sup>3</sup> ) x 1.5
PEL > 100-1000	(ppm or mg/M <sup>3</sup> ) x 1.25
PEL > 1000	(ppm or mg/M <sup>3</sup> ) x 1

(5) Permissible limits are based on the best available information from industrial experience, from experimental human and animal studies, and, when possible, from a combination of the three. The basis on which the values are established may differ from substance to substance; protection against impairment of health may be a guiding factor for some, whereas reasonable freedom from irritation, narcosis, nuisance or other forms of stress may form the basis for others.

(6) The limits based on physical irritation shall be considered no less binding than those based on physical impairment. There is increasing evidence that physical irritation may initiate, promote or accelerate physical impairment through interaction with other chemical or biologic agents.

(7) In spite of the fact that serious injury is not believed likely as a result of exposure to the permissible limit concentrations, the best practice is to maintain concentrations of all atmospheric contaminants as low as is practical.

(8) These limits are intended for use in the practice of industrial hygiene and should be interpreted and applied only by a technically qualified person.

AMENDATORY SECTION (Amending Order 89-06, filed 7/6/89, effective 8/7/89)

**WAC 296-62-07510 Total particulate.** Total particulate exposure shall not exceed a permissible limit of 10 milligrams per cubic meter (mg/M<sup>3</sup>) of air for total dust or 5 milligrams per cubic meter (mg/M<sup>3</sup>) for respirable dust. The use of this eight-hour time-weighted-average exposure limit does not preclude the application of other applicable limits in WAC 296-62-075 through 296-62-07515. Nor does it preclude the use of WAC 296-62-060 when substances not specifically listed in Table 1 (~~(or-2))~~ are found to require a lower limit. This section does, however, limit the combined total concentration of all particulate contaminants whether or not specifically listed in Table 1 (~~(or-2))~~.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

**WAC 296-62-07515 Control of chemical agents.** Chemical agents shall be controlled in such a manner that the workers exposure shall not exceed the applicable limits in WAC 296-62-075 through 296-62-07515.

PROPOSED

TABLE 1: LIMITS FOR AIR CONTAMINANTS  
Permissible Exposure Limits (PEL)

Substance	CAS <sup>v</sup> Number	TWA		STEL <sup>v</sup>		CEILING		Skin Designation
		ppm <sup>v</sup>	mg/m <sup>3</sup> <sup>v</sup>	ppm <sup>v</sup>	mg/m <sup>3</sup> <sup>v</sup>	ppm <sup>v</sup>	mg/m <sup>3</sup> <sup>v</sup>	
Abate, see Temephos	—	—	—	—	—	—	—	—
Acetaldehyde	75-07-0	100	180	150	270	—	—	—
Acetic acid	64-19-7	10	25	—	—	—	—	—
Acetic anhydride	108-24-7	—	—	—	—	5.0	20	—
Acetone	67-64-1	750	1800	1000	2400	—	—	—
Acetonitrile	75-05-8	40	70	60	105	—	—	—
2-Acetylaminofluorene (see WAC 296-62-073)	53-96-3	—	—	—	—	—	—	—
Acetylene	74-86-2	Simple	Asphyxiant	—	—	—	—	—
Acetylene dichloride (see 1,2-Dichloroethylene)	—	—	—	—	—	—	—	—
Acetylene tetrabromide	79-27-6	1.0	14	—	—	—	—	—
Acetylsalicylic acid (Aspirin)	50-78-2	—	5.0	—	—	—	—	—
Acrolein	107-02-8	0.1	0.25	0.3	0.8	—	—	—
Acrylamide	79-06-1	—	0.03	—	—	—	—	X
Acrylic acid	79-10-7	10	30	—	—	—	—	X
Acrylonitrile (see WAC 296-62-07341)	107-13-1	—	—	—	—	—	—	—
Aldrin	309-00-2	—	0.25	—	—	—	—	X
Allyl alcohol	107-18-6	2.0	5.0	4.0	10	—	—	X
Allyl Chloride	107-05-1	1.0	3.0	2.0	6.0	—	—	—
Allyl glycidyl ether (AGE)	106-92-3	5.0	22	10	44	—	—	—
Allyl propyl disulfide	2179-59-1	2.0	12	3.0	18	—	—	—
alpha-Alumina (see Aluminum oxide)	1344-28-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Aluminum, metal and oxide (as Al)	7429-90-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
pyro powders	—	—	5.0	—	—	—	—	—
welding fumes f/ soluble salts	—	—	5.0	—	—	—	—	—
alkyls (NOC)	—	—	2.0	—	—	—	—	—
Alundum (see Aluminum oxide)	—	—	—	—	—	—	—	—
4-Aminodiphenyl (see WAC 296-62-073)	92-67-1	—	—	—	—	—	—	—
2-Aminoethanol (see Ethanolamine)	—	—	—	—	—	—	—	—
2-Aminopyridine	504-29-0	0.5	2.0	—	—	—	—	—
Amitrole	61-82-5	—	0.2	—	—	—	—	—
Ammonia	7664-41-7	25	18	35	27	—	—	—
Ammonium chloride, fume	12125-02-9	—	10	—	20	—	—	—
Ammonium sulfamate (Ammate)	7773-06-0	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
n-Amyl acetate	628-63-7	100	525	—	—	—	—	—
sec-Amyl acetate	626-38-0	125	650	—	—	—	—	—
Aniline and homologues	62-53-3	2.0	8.0	—	—	—	—	X
Anisidine (o, p-isomers)	29191-52-4	0.1	0.5	—	—	—	—	X
Antimony and Compounds (as Sb)	7440-36-0	—	0.5	—	—	—	—	—
ANTU (alpha Naphthyl thiourea)	86-88-4	—	0.3	—	—	—	—	—

PROPOSED

PROPOSED

Argon	7440-37-1	Simple	Asphyxiant	—	—	—	—	—
Arsenic,	7440-38-2	—	0.2	—	—	—	—	—
Organic compounds (as As)								
Arsenic, Inorganic		—	0.2	—	—	—	—	—
compounds, (as As)	7440-38-2							
(see WAC 296-62-07347 for								
applications and exclusions)								
Arsine	7784-42-1	0.05	0.2	—	—	—	—	—
Asbestos		—	—	—	—	—	—	—
(see WAC 296-62-077 through								
296-62-07753)								
Asphalt (Petroleum fumes)	8052-42-4	—	5.0	—	—	—	—	—
Atrazine	1912-24-9	—	5.0	—	—	—	—	—
Azinphos methyl	86-50-0	—	0.2	—	—	—	—	X
Barium, soluble	7440-39-3	—	0.5	—	—	—	—	—
compounds (as Ba)								
Barium Sulfate	7727-43-7	—	—	—	—	—	—	—
Total dust	—	—	10.0	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Benomyl	17804-35-2	—	—	—	—	—	—	—
Total dust	—	0.8	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Benzene,	71-43-2	1.0	—	5.0	—	—	—	—
(see WAC 296-62-07523)d/								
Benidine,	92-87-5	—	—	—	—	—	—	—
(see WAC 296-62-073)								
p-Benzoquinone,	—	—	—	—	—	—	—	—
(see Quinone)								
Benzo(a) pyrene;	—	—	—	—	—	—	—	—
(see Coal tar pitch volatiles)								
Benzoyl peroxide	94-36-0	—	5.0	—	—	—	—	—
Benzyl chloride	100-44-7	1.0	5.0	—	—	—	—	—
Beryllium and beryllium	7440-41-7	—	0.002	—	0.005	—	0.025	—
compounds (as Be)					(30 min.)			
Biphenyl (see (( <del>Diphenyl</del> )))								
Diphenyl)								
Bismuth telluride, Undoped	1304-82-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Bismuth telluride, Se-doped	—	—	5.0	—	—	—	—	—
Borates, tetra, sodium salts:								
Anhydrous	1330-43-4	—	1.0	—	—	—	—	—
Decahydrate	1303-96-4	—	5.0	—	—	—	—	—
Pentahydrate	12179-04-3	—	1.0	—	—	—	—	—
Boron oxide	1303-86-2	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Boron tribromide	10294-33-4	—	—	—	—	1.0	10	—
Boron trifluoride	7637-07-2	—	—	—	—	1.0	3.0	—
Bromacil	314-40-9	1.0	10	—	—	—	—	—
Bromine	7726-95-6	0.1	0.7	0.3	2.0	—	—	—
Bromine pentafluoride	7789-30-2	0.1	0.7	—	—	—	—	—
Bromochloromethane,	—	—	—	—	—	—	—	—
(see Chlorobromomethane)								
Bromoform	15-25-2	0.5	5.0	—	—	—	—	X
Butadiene	106-99-0	((10))	((22))	((—))	—	—	—	—
(1,3-butadiene)		<u>1</u>	<u>2.2</u>	<u>5</u>				
Butane	106-97-8	800	1,900	—	—	—	—	—
Butanethiol	—	—	—	—	—	—	—	—
(see Butyl mercaptan)								

PROPOSED

2-Butanone (Methyl ethyl ketone)	78-93-3	200	590	300	885	—	—	—
2-Butoxy ethanol (Butyl Cellosolve)	111-76-2	25	120	—	—	—	—	X
n-Butyl acetate	123-86-4	150	710	200	950	—	—	—
sec-Butyl acetate	105-46-4	200	950	—	—	—	—	—
tert-Butyl acetate	540-88-5	200	950	—	—	—	—	—
Butyl acrylate	141-32-2	10	55	—	—	—	—	—
n-Butyl alcohol	71-36-3	—	—	—	—	50	150	X
sec-Butyl alcohol	78-92-2	100	305	—	—	—	—	—
tert-Butyl alcohol	75-65-0	100	300	150	450	—	—	—
Butylamine	109-73-9	—	—	—	—	5.0	15	X
tert-Butyl chromate (see CrO3)	1189-85-1	—	—	—	—	—	0.1	X
n-Butyl glycidyl ether (BGE)	2426-08-6	25	135	—	—	—	—	—
n-Butyl lactate	138-22-7	5.0	25	—	—	—	—	—
Butyl mercaptan	109-79-5	0.5	1.5	—	—	—	—	—
o-sec-Butylphenol	89-72-5	5.0	30	—	—	—	—	X
p-tert-Butyl-toluene	98-51-1	10	60	20	120	—	—	—
Cadmium oxide fume, (as Cd) (see WAC 296-62-074)	1306-19-0	—	—	—	—	—	—	—
Cadmium dust and salts (as Cd) (see WAC 296-62-074)	7440-43-9	—	—	—	—	—	—	—
Calcium arsenate (see WAC 296-62-07347)	—	—	—	—	—	—	—	—
Calcium carbonate	1317-65-3	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Calcium cyanamide	156-62-7	—	0.5	—	—	—	—	—
Calcium hydroxide	1305-62-0	—	5.0	—	—	—	—	—
Calcium oxide	1305-78-8	—	2.0	—	—	—	—	—
Calcium silicate	1344-95-2	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Calcium sulfate	7778-18-9	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Camphor (synthetic)	76-22-2	—	2.0	—	—	—	—	—
Caprolactam;	105-60-2	—	—	—	—	—	—	—
Dust	—	—	1.0	—	3.0	—	—	—
Vapor	—	5.0	20	10	40	—	—	—
Captafol (Difolatan)	2425-06-1	—	0.1	—	—	—	—	X
Captan	133-06-2	—	5.0	—	—	—	—	—
Carbaryl (Sevin)	63-25-2	—	5.0	—	—	—	—	—
Carbofuran (Furadon)	1563-66-2	—	0.1	—	—	—	—	—
Carbon black	1333-86-4	—	3.5	—	—	—	—	—
Carbon dioxide	124-38-9	5,000	9,000	<del>((30,00))</del> 30,000	54,000	—	—	—
Carbon disulfide	75-15-0	4.0	12	12	36	—	—	X
Carbon monoxide	630-08-0	35	40	—	—	200 m/	229 m/	—
Carbon tetrabromide	558-13-4	0.1	1.4	0.3	4.0	—	—	—
Carbon tetrachloride	56-23-5	2.0	12.6	—	—	—	—	—
Carbonyl chloride (see Phosgene)	—	—	—	—	—	—	—	—
Carbonyl fluoride	353-50-4	2.0	5.0	5.0	15	—	—	—
Catechol (Pyrocatechol)	120-80-9	5.0	20	—	—	—	—	X
Cellulose (paper fiber)	9004-34-6	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Cesium hydroxide	21351-79-1	—	2.0	—	—	—	—	—

Chlordane	57-74-9	—	0.5	—	—	—	—	X
Chlorinated camphene	8001-35-2	—	0.5	—	1.0	—	—	X
Chlorinated diphenyl oxide	55720-99-5	—	0.5	—	—	—	—	—
Chlorine	7782-50-5	0.5	1.5	1.0	3.0	1.0	3.0	—
Chlorine dioxide	10049-04-4	0.1	0.3	0.3	0.9	—	—	—
Chlorine trifluoride	7790-91-2	—	—	—	—	0.1	0.4	—
Chloroacetaldehyde	107-20-0	—	—	—	—	1.0	3.0	—
a-Chloroacetophenone (Phenacyl chloride)	532-21-4	0.05	0.3	—	—	—	—	—
Chloroacetyl chloride	79-04-9	0.05	0.2	—	—	—	—	—
Chlorobenzene (Monochlorobenzene)	108-90-7	75	350	—	—	—	—	—
o-Chlorobenzylidene malononitrile (OCBM)	2698-41-1	—	—	—	—	0.05	0.4	X
Chlorobromomethane	74-97-5	200	1,050	—	—	—	—	—
2-Chloro-1, 3-butadiene (see beta-Chloroprene)	—	—	—	—	—	—	—	—
Chlorodifluoromethane	75-45-6	1,000	3,500	—	—	—	—	—
Chlorodiphenyl (42% Chlorine) (PCB)	53469-21-9	—	1.0	—	—	—	—	X
Chlorodiphenyl (54% Chlorine) (PCB)	11097-69-1	—	0.5	—	—	—	—	X
1-Chloro-2, 3-epoxypropane, (see Epichlorhydrin)	—	—	—	—	—	—	—	—
2-Chloroethanol (see Ethylene chlorohydrin)	—	—	—	—	—	—	—	—
Chloroethylene (see vinyl chloride)	—	—	—	—	—	—	—	—
Chloroform (Trichloromethane)	67-66-3	2.0	9.78	—	—	—	—	—
1-Chloro-1-nitropropane	600-25-9	2.0	10	—	—	—	—	—
bis-Chloromethyl ether (see WAC 296-62-073)	542-88-1	—	—	—	—	—	—	—
Chloromethyl methyl ether (see Methyl carbomethyl ether)	107-30-2	—	—	—	—	—	—	—
Chloropentafluoroethane	76-15-3	1,000	6,320	—	—	—	—	—
Chloropicrin	76-06-2	0.1	0.7	—	—	—	—	—
beta-Chloroprene	126-99-8	10	35	—	—	—	—	X
o-Chlorostyrene	2039-87-4	50	285	75	428	—	—	—
o-Chlorotoluene	95-49-8	50	250	—	—	—	—	—
2-Chloro-6-trichloromethyl pyridine (see Nitrapyrin)	1929-82-4	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Chlorpyrifos	2921-88-2	—	0.2	—	—	—	—	X
Chromic acid and chromates  (as CrO3)	Varies  w/compounds	—	((—)) <u>0.1</u>	—	—	—	((0.1)) <u>—</u>	—
Chromium, sol, chromic, chromous salts (as Cr)	7440-47-3	—	0.5	—	—	—	—	—
Chromium (VI) compounds (as Cr)	—	—	0.05	—	—	—	—	—
Chromium Metal and insoluble salts	7440-47-3	—	0.5	—	—	—	—	—
Chromyl chloride	14977-61-8	0.025	0.15	—	—	—	—	—
Chrysene: (see Coal tar pitch volatiles)	—	—	—	—	—	—	—	—
Clopidol	2971-90-6	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Coal Dust (less than 5% SiO2) Respirable fraction	—	—	2.0	—	—	—	—	—

PROPOSED

Coal dust (greater than or equal to 5% SiO <sub>2</sub> ) Respirable fraction	—	—	0.1	—	—	—	—	—
Coal tar pitch volatiles (benzene soluble fraction anthracene, BaP, phenanthrene, acridine, chrysene, pyrene)	65996-93-2	—	0.2	—	—	—	—	—
Cobalt, metal fume & dust, (as Co)	7440-48-4	—	0.05	—	—	—	—	—
Cobalt carbonyl (as Co)	10210-68-1	—	0.1	—	—	—	—	—
Cobalt hydrocarbonyl (as Co)	16842-03-8	—	0.1	—	—	—	—	—
Coke oven emissions (see WAC 296-62-200)	—	—	—	—	—	—	—	—
Copper fume (as Cu)	7440-50-8	—	0.1	—	—	—	—	—
Dusts and mists (as Cu)	—	—	1.0	—	—	—	—	—
Cotton dust (raw) e/	—	—	1.0	—	—	—	—	—
Corundum, (see Aluminum oxide)	—	—	—	—	—	—	—	—
Crag herbicide (Sesone)	136-78-7	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Cresol (all isomers)	1319-77-3	5.0	22	—	—	—	—	X
Crotonaldehyde 4170-30-3	123-73-9;	2.0	6.0	—	—	—	—	—
Crufomate	299-86-5	—	5.0	—	—	—	—	—
Cumene	98-82-8	50	245	—	—	—	—	X
Cyanamide	420-04-2	—	2.0	—	—	—	—	—
Cyanide (as CN)	Varies	—	5.0	—	—	—	—	X
	with Compound							
Cyanogen	460-19-5	10	20	—	—	—	—	—
Cyanogen chloride	506-77-4	—	—	—	—	0.3	0.6	—
Cyclohexane	110-82-7	300	1,050	—	—	—	—	—
Cyclohexanol	108-93-0	50	200	—	—	—	—	X
Cyclohexanone	108-94-1	25	100	—	—	—	—	X
Cyclohexene	110-83-8	300	1,015	—	—	—	—	—
Cyclohexylamine	108-91-8	10	40	—	—	—	—	—
Cyclonite (see RDX)	121-82-4	—	1.5	—	—	—	—	X
Cyclopentadiene	542-92-7	75	200	—	—	—	—	—
Cyclopentane	287-92-3	600	1,720	—	—	—	—	—
Cyhexatin	13121-70-5	—	5.0	—	—	—	—	—
2,4-D (Dichlorophenoxy- acetic acid)	94-75-7	—	10	—	—	—	—	—
DDT (Dichlorodiphenyltri- chloroethane)	50-29-3	—	1.0	—	—	—	—	X
DDVP, Dichlorvos	62-73-7	0.1	1.0	—	—	—	—	X
Decaborane	17702-41-9	0.05	0.3	0.15	0.9	—	—	X
Demeton	8065-48-3	0.01	0.1	—	—	—	—	X
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	123-42-2	50	240	—	—	—	—	—
1, 2-Diaminoethane (see Ethylenediamine)	—	—	—	—	—	—	—	—
Diazinon	333-41-5	—	0.1	—	—	—	—	X
Diazomethane	334-88-3	0.2	0.4	—	—	—	—	—
Diborane	19287-45-7	0.1	0.1	—	—	—	—	—
Dibrom, (see Naled)	—	—	—	—	—	—	—	—
1, 2-Dibromo-3-chloropropane (see WAC 296-62-07345)	<del>(96-12-3))</del> 96-12-8	—	—	—	—	—	—	—
2-N-Dibutylamino ethanol	102-81-8	2.0	14	—	—	—	—	X
Dibutyl phosphate	107-66-4	1.0	5.0	2.0	10	—	—	—
Dibutyl phthalate	84-74-2	—	5.0	—	—	—	—	—

Dichloroacetylene	7572-29-4	—	—	—	—	0.1	0.4	—
o-Dichlorobenzene	95-50-1	—	—	—	—	50	300	—
p-Dichlorobenzene	106-46-7	75	450	110	675	—	—	—
3, 3'-Dichlorobenzidine (see WAC 296-62-073)	91-94-1	—	—	—	—	—	—	—
Dichlorodifluoromethane	75-71-8	1,000	4,950	—	—	—	—	—
1, 3-Dichloro-5, 5-dimethyl hydantoin	118-52-5	—	0.2	—	0.4	—	—	—
1, 1-Dichloroethane	75-34-3	100	400	—	—	—	—	—
1, 2-Dichloroethane (see Ethylene dichloride)	—	—	—	—	—	—	—	—
1, 2-Dichloroethylene	540-59-0	200	790	—	—	—	—	—
1, 1-Dichloroethylene (see Vinylidene chloride)	—	—	—	—	—	—	—	—
Dichloroethyl ether	111-44-4	5.0	30	10	60	—	—	X
Dichlorofluoromethane	75-43-4	10	40	—	—	—	—	—
Dichloromethane (see Methylene chloride)	—	—	—	—	—	—	—	—
1, 1-Dichloro-1-nitroethane	594-72-9	2.0	10.	10.	—	—	—	—
1, 2-Dichloropropane (see Propylene dichloride)	—	—	—	—	—	—	—	—
Dichloropropene	542-75-6	1.0	5.0	—	—	—	—	X
2, 2-Dichloropropionic acid	75-99-0	1.0	6.0	—	—	—	—	—
Dichlorotetrafluoroethane	76-14-2	1,000	7,000	—	—	—	—	—
Dichlorvos (DDVP)	62-73-7	0.1	1.0	—	—	—	—	X
Dicrotophos	141-66-2	—	0.25	—	—	—	—	X
Dicyclopentadiene	77-73-6	5.0	30	—	—	—	—	—
Dicyclopentadienyl iron Total dust	102-54-5	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Dieldrin	60-57-1	—	0.25	—	—	—	—	X
Diethanolamine	111-42-2	3.0	15	—	—	—	—	—
Diethylamine	109-89-7	10	30	25	75	—	—	—
2-Diethylaminoethanol	100-37-8	10	50	—	—	—	—	X
Diethylene triamine	111-40-0	1.0	4.0	—	—	—	—	X
Diethyl ether (see Ethyl ether)	—	—	—	—	—	—	—	—
Diethyl ketone	96-22-0	200	705	—	—	—	—	—
Diethyl phthalate	84-66-2	—	5.0	—	—	—	—	—
Difluorodibromomethane	75-61-6	100	860	—	—	—	—	—
Diglycidyl ether (DGE)	2238-07-5	0.1	0.5	—	—	—	—	—
Dihydroxybenzene (see Hydroquinone)	—	—	—	—	—	—	—	—
Diisobutyl ketone	108-83-8	25	150	—	—	—	—	—
Diisopropylamine	108-18-9	5.0	20	—	—	—	—	X
Dimethoxymethane (see Methylal)	—	—	—	—	—	—	—	—
Dimethyl acetamide	127-19-5	10	35	—	—	—	—	X
Dimethylamine	124-40-3	10	18	—	—	—	—	—
4-Dimethylaminoazobenzene (see WAC 296-62-073)	60-11-7	—	—	—	—	—	—	—
Dimethylaminobenzene (see Xylidene)	—	—	—	—	—	—	—	—
Dimethylaniline (N, N-Dimethylaniline)	121-69-7	5.0	25	10	50	—	—	X
Dimethylbenzene (see Xylene)	—	—	—	—	—	—	—	—
Dimethyl-1, 2-dibromo-2, 2-dichloroethyl phosphate (see Naled)	300-76-5	—	3.0	—	—	—	—	X
Dimethylformamide	68-12-2	10	30	—	—	—	—	X
2, 6-Dimethylheptanone (see Diisobutyl ketone)	—	—	—	—	—	—	—	—
1, 1-Dimethylhydrazine	57-14-7	0.5	1.0	—	—	—	—	X

Dimethyl phthalate	131-11-3	—	5.0	—	—	—	—	—
Dimethyl sulfate	77-78-1	0.1	0.5	—	—	—	—	X
Dinitolmide	148-01-6	—	5.0	—	—	—	—	—
(3, 5-Dinitro-o-toluamide)	—	—	5.0	—	—	—	—	—
Dinitrobenzene (all isomers)	(alpha) 528-29-0; (meta) 99-65-0; (para) 100-25-4	0.15	1.0	—	—	—	—	X
Dinitro-o-cresol	534-52-1	—	0.2	—	—	—	—	X
Dinitrotoluene	25321-14-6	—	1.5	—	—	—	—	X
Dioxane (Diethylene dioxide)	123-91-1	25	90	—	—	—	—	X
Dioxathion	78-34-2	—	0.2	—	—	—	—	X
Diphenyl (Biphenyl)	92-52-4	0.2	1.0	—	—	—	—	—
Diphenylamine	122-39-4	—	10	—	—	—	—	—
Diphenylmethane diisocyanate (see Methylene bisphenyl isocyanate (MDI))	—	—	—	—	—	—	—	—
Dipropylene glycol methyl ether	34590-94-8	100	600	150	900	—	—	X
Dipropyl ketone	123-19-3	50	235	—	—	—	—	—
Diquat	85-00-7	—	0.5	—	—	—	—	—
Di-sec, Octyl phthalate (Di-2-ethylhexylphthalate)	117-81-7	—	5.0	—	10	—	—	—
Disulfram	97-77-8	—	2.0	—	—	—	—	—
Disulfoton	298-04-4	—	0.1	—	—	—	—	X
2, 6-Di-tert-butyl-p-cresol	128-37-0	—	10	—	—	—	—	—
Diuron	330-54-1	—	10	—	—	—	—	—
Divinyl benzene	1321-74-0	10	50	—	—	—	—	—
Emery	12415-34-8	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Endosulfan (Thiodan)	115-29-7	—	0.1	—	—	—	—	X
Endrin	72-20-8	—	0.1	—	—	—	—	X
Epichlorhydrin	106-89-8	2.0	8.0	—	—	—	—	X
EPN	2104-64-5	—	0.5	—	—	—	—	X
1, 2-Epoxypropane (see Propylene oxide)	—	—	—	—	—	—	—	—
2, 3-Epoxy-1-propanol (see Glycidol)	—	—	—	—	—	—	—	—
Ethane	—	Simple	Asphyxiant	—	—	—	—	—
Ethanethiol (see Ethyl mercaptan)	—	—	—	—	—	—	—	—
Ethanolamine	141-43-5	3.0	8.0	6.0	15	—	—	—
Ethion	563-12-2	—	0.4	—	—	—	—	X
2-Ethoxyethanol	110-80-5	5.0	19	—	—	—	—	X
2-Ethoxyethyl acetate (Cellosolve acetate)	111-15-9	5.0	27	—	—	—	—	X
Ethyl acetate	141-78-6	400	1,400	—	—	—	—	—
Ethyl acrylate	140-88-5	5.0	20	25	100	—	—	X
Ethyl alcohol (ethanol)	64-17-5	1,000	1,900	—	—	—	—	—
Ethylamine	75-04-07	10	18	—	—	—	—	—
Ethyl amyl ketone (5-Methyl-3-hepatone)	541-85-5	25	130	—	—	—	—	—
Ethyl benzene	100-41-4	100	435	125	545	—	—	—
Ethyl bromide	74-96-4	200	890	250	1,110	—	—	—
Ethyl butyl ketone (3-Heptanone)	106-35-4	50	230	—	—	—	—	—
Ethyl chloride	75-00-3	1,000	2,600	—	—	—	—	—
Ethylene	74-85-1	Simple	Asphyxiant	—	—	—	—	—
Ethylene chlorohydrin	107-07-3	—	—	—	—	1.0	3.0	X
Ethylenediamine	107-15-3	10	25	—	—	—	—	X
Ethylene dibromide	106-93-4	0.1	—	0.5	—	—	—	—
Ethylene dichloride	107-06-2	1.0	4.0	2.0	8.0	—	—	—

Ethylene glycol	107-21-1	—	—	—	—	50	125	—
Ethylene glycol dinitrate	628-96-6	—	—	—	0.1	—	—	X
Ethylene glycol monomethyl ether acetate (Methyl cellosolve acetate)	—	5.0	24	—	—	—	—	X
Ethyleneimine (see WAC 296-62-073)	151-56-4	—	—	—	—	—	—	X
Ethylene oxide (see WAC 296-62-07353)	75-21-8	1:0	2:0	—	—	—	—	—
Ethyl ether	60-29-7	400	1,200	500	1,500	—	—	—
Ethyl formate	109-94-4	100	300	—	—	—	—	—
Ethylidene chloride (see 1, 1-Dichloroethane)	—	—	—	—	—	—	—	—
Ethylidene norbornene	16219-75-3	—	—	—	—	5.0	25	—
Ethyl mercaptan	75-08-1	0.5	1.0	—	—	—	—	—
n-Ethylmorpholine	100-74-3	5.0	23	—	—	—	—	X
Ethyl sec-amyl ketone (5-methyl-3-heptanone)	—	25	130	—	—	—	—	—
Ethyl silicate	78-10-4	10	85	—	—	—	—	—
Fenamiphos	22224-92-6	—	0.1	—	—	—	—	X
Fensulfothion (Dasanit)	115-90-2	—	0.1	—	—	—	—	—
Fenthion	55-38-9	—	0.2	—	—	—	—	X
Ferbam	14484-64-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Ferrovandium dust	12604-58-9	—	1.0	—	3.0	—	—	—
Fluorides (as F)	Varies	—	2.5	—	—	—	—	—
	w/compound	—	—	—	—	—	—	—
Fluorine	7782-41-4	0.1	0.2	—	—	—	—	—
Fluorotrichloromethane (see Trichlorofluoromethane)	75-69-4	—	—	—	—	1,000	5,600	—
Fonofos	944-22-9	—	0.1	—	—	—	—	X
Formaldehyde  (see WAC 296-62-07540)	50-00-0	((1.0)) 0.75	—	2.0	—	—	—	—
Formamide	75-12-7	20	30	30	45	—	—	—
Formic acid	64-18-6	5.0	9.0	—	—	—	—	—
Furfural	98-01-1	2.0	8.0	—	—	—	—	X
Furfuryl alcohol	98-00-0	10	40	15	60	—	—	X
Gasoline	8006-61-9	300	900	500	1,500	—	—	—
Germanium tetrahydride	7782-65-2	0.2	0.6	—	—	—	—	—
Glass, fibrous or dust	—	—	10	—	—	—	—	—
Gluteraldehyde	111-30-8	—	—	—	—	0.2	0.8	—
Glycerin mist	56-81-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Glycidol (2, 3-Epoxy-1- propanol)	556-52-5	25	75	—	—	—	—	—
Glycol monoethyl ether (see 2-Ethoxyethanol)	—	—	—	—	—	—	—	—
Grain dust (oat, wheat, barley)	—	—	10	—	—	—	—	—
Graphite, natural	7782-42-5	—	—	—	—	—	—	—
Respirable dust	—	—	2.5	—	—	—	—	—
Graphite, Synthetic	—	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Guthion (see Azinphosmethyl)	—	—	—	—	—	—	—	—
Gypsum	13397-24-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Hafnium	7440-58-6	—	0.5	—	—	—	—	—

PROPOSED

PROPOSED

		Simple	Asphyxiant					
Helium								
Heptachlor	76-44-8		0.5					X
Heptane (n-heptane)	142-82-5	400	1,600	500	2,000			
2-Heptanone, (see Methyl n-amyl ketone)								
3-Heptanone (see Ethyl butyl ketone)								
Hexachlorobutadiene	87-68-3	0.02	0.24					X
Hexachlorocyclopentadiene	77-47-4	0.01	0.1					
Hexachloroethane	67-72-1	1.0	10					X
Hexachloronaphthalene	1335-87-1		0.2					X
Hexafluoroacetone	684-16-2	0.1	0.7					X
Hexane								
n-hexane	110-54-3	50	180					
other Isomers	Varies	500	1,800	1,000	3,600			
	w/compound							
2-Hexanone (Methyl-n-butyl ketone)	591-78-6	5.0	20					
Hexone (Methyl isobutyl ketone)	108-10-1	50	205	75	300			
sec-Hexyl acetate	108-84-9	50	300					
Hexylene Glycol	107-41-5					25	125	
Hydrazine	302-01-2	0.1	0.1					X
Hydrogen		Simple	Asphyxiant					
Hydrogenated terphenyls	61788-32-7	0.5	5.0					
Hydrogen bromide	10035-10-6					3.0	10	
Hydrogen chloride	7647-01-0					5.0	7.0	
Hydrogen cyanide	74-90-8			4.7	5.0			X
Hydrogen fluoride	7664-39-3					3.0	2.5	
Hydrogen peroxide	7722-84-1	1.0	1.4					
Hydrogen selenide (as Se)	7783-07-5	0.05	0.2					
Hydrogen Sulfide	7783-06-4	10	14	15	21			
Hydroquinone	123-31-9		2.0					
4-Hydroxy-4-methyl-2-pentanone (see Diacetone alcohol)								
2-Hydroxypropyl acrylate	999-61-1	0.5	3.0					X
Indene	95-13-6	10	45					
Indium and compounds (as In)	7440-74-6		0.1					
Iodine	7553-56-2					0.1	1.0	
Iodoform	75-47-8	0.6	10					
Iron oxide dust and fume (as Fe) Total particulate	1309-37-1		5.0					
Iron pentacarbonyl (as Fe)	13463-40-6	0.1	0.8	0.2	1.6			
Iron salts, soluble (as Fe)	Varies		1.0					
	w/compound							
Isoamyl acetate	123-92-2	100	525					
Isoamyl alcohol (primary and secondary)	123-51-3	100	360	125	450			
Isobutyl acetate	110-19-0	150	700					
Isobutyl alcohol	78-83-1	50	150					
Isooctyl alcohol	26952-21-6	50	270					X
Isophorone	78-59-1	4.0	23			5.0	25	
Isophorone diisocyanate	4098-71-9	0.005	0.045	0.02				X
Isopropoxyethanol	109-59-1	25	105					
Isopropyl acetate	108-21-4	250	950	310	1,185			
Isopropyl alcohol	67-63-0	400	980	500	1,225			
Isopropylamine	75-31-0	5.0	12	10	24			
N-Isopropylaniline	768-52-5	2.0	10					X
Isopropyl ether	108-20-3	250	1,050					
Isopropyl glycidyl ether (IGE)	4016-14-2	50	240	75	360			

Kaolin								
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Ketene	463-51-4	0.5	0.9	1.5	3.0	—	—	—
Lead inorganic (as Pb)	7439-92-1	—	0.05	—	—	—	—	—
(see WAC 296-62-07521)								
Lead arsenate	3687-31-8	—	0.05	—	—	—	—	—
(see WAC 296-62-07347)								
Lead chromate	7758-97-6	—	0.05	—	—	—	—	—
Limestone	1317-65-3							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Lindane	58-89-9	—	0.5	—	—	—	—	X
Lithium hydride	7580-67-8	—	0.025	—	—	—	—	—
L.P.G.	68476-85-7	1,000	1,800	—	—	—	—	—
(liquified petroleum gas)								
Magnesite	546-93-0							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Magnesium oxide fume	1309-48-4	—	—	—	—	—	—	—
Total particulate	—	—	10	—	—	—	—	—
Malathion	121-75-5							
Total dust	—	—	10	—	—	—	—	X
Maleic anhydride	108-31-6	0.25	1.0	—	—	—	—	—
Manganese and compound (as Mn)	7439-96-5	—	—	—	—	—	5.0	—
Manganese tetroxide and fume	7439-96-5	—	1.0	—	3.0	—	—	—
(as Mn)								
Manganese cyclopentadienyl	12079-65-1	—	0.1	—	—	—	—	X
tricarbonyl (as Mn)								
Manganese tetroxide (as Mn)	1317-35-7	—	1.0	—	—	—	—	—
Marble	1317-65-3							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Mercury (aryl and inorganic)	7439-97-6	—	((—))	—	—	—	((0.1))	X
(as Hg)			0.1	—	—	—	—	—
Mercury (organo-alkyl compounds)	7439-97-6	—	0.01	—	0.03	—	—	X
(as Hg)								
Mercury (vapor) (as Hg)	7439-97-6	—	0.05	—	—	—	—	X
Mesityl oxide	141-79-7	15	60	25	100	—	—	—
Methacrylic acid	79-41-4	20	70	—	—	—	—	X
Methane	—	Simple	Asphyxiant	—	—	—	—	—
Methanethiol	—	—	—	—	—	—	—	—
(see Methyl mercaptan)								
Methomyl (lannate)	16752-77-5	—	2.5	—	—	—	—	—
Methoxychlor	72-43-5							
Total dust	—	—	10	—	—	—	—	—
2-Methoxyethanol	109-86-4	5.0	16	—	—	—	—	X
(Methyl cellosolve)								
4-Methoxyphenol	150-76-5	—	5.0	—	—	—	—	—
Methyl acetate	79-20-9	200	610	250	760	—	—	—
Methyl acetylene (propyne)	74-99-7	1,000	1,650	—	—	—	—	—
Methyl acetylene-propadiene	—	1,000	1,800	1,250	2,250	—	—	—
mixture (MAPP)								
Methyl acrylate	96-33-3	10	35	—	—	—	—	X
Methylacrylonitrile	126-98-7	1.0	3.0	—	—	—	—	X
Methylal (Dimethoxy-methane)	109-87-5	1,000	3,100	—	—	—	—	—
Methyl alcohol (methanol)	67-56-1	200	260	250	325	—	—	X
Methylamine	74-89-5	10	12	—	—	—	—	—
Methyl amyl alcohol	—	—	—	—	—	—	—	—
(see Methyl isobutyl carbinol)								

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Methyl n-amyl ketone (2-Heptanone)	110-43-0	50	235	—	—	—	—	—
N-Methyl aniline (see Monomethyl aniline)	—	—	—	—	—	—	—	—
Methyl bromide	74-83-9	5.0	20	—	—	—	—	X
Methyl butyl ketone (see 2-Hexanone)	—	—	—	—	—	—	—	—
Methyl cellosolve (see 2-Methoxyethanol)	109-86-4	5.0	16	—	—	—	—	X
Methyl cellosolve acetate (2-Methoxyethyl acetate)	110-49-6	5.0	24	—	—	—	—	X
Methyl chloride	74-87-3	50	105	100	210	—	—	—
Methyl chloroform (1, 1, 1-trichlorethane)	71-55-6	350	1,900	450	2,450	—	—	—
Methyl chloromethyl ether (see WAC 296-62-073)	107-30-2	—	—	—	—	—	—	—
Methyl 2-cyanoacrylate	137-05-3	2.0	8.0	4.0	16	—	—	—
Methylcyclohexane	108-87-2	400	1,600	—	—	—	—	—
Methylcyclohexanol	25639-42-3	50	235	—	—	—	—	—
Methylcyclohexanone	583-60-8	50	230	75	345	—	—	X
Methylcyclopentadienyl manganese tricarbonyl (as Mn)	12108-13-3	—	0.2	—	—	—	—	X
Methyl demeton	8022-00-2	—	0.5	—	—	—	—	X
Methylene bisphenyl isocyanate (MDI)	101-68-8	—	—	—	—	0.02	0.2	—
4, 4'-Methylene bis (2-chloroaniline (MBOCA)) (see WAC 296-62-073)	101-14-4	0.02	0.22	—	—	—	—	X
Methylene bis (4-cyclohexylisocyanate)	5124-30-1	—	—	—	—	0.01	0.11	—
Methylene chloride	75-09-2	100	—	500	—	—	—	—
4, 4-Methylene dianiline	101-77-9	0.1	0.8	—	—	—	—	X
Methyl ethyl ketone (MEK) (see 2-Butanone)	78-93-3	—	—	—	—	—	—	—
Methyl ethyl ketone peroxide (MEKP)	1338-23-4	—	—	—	—	0.2	1.5	—
Methyl formate	107-31-3	100	250	150	375	—	—	—
5-Methyl-3-heptanone (see Ethyl amyl ketone)	—	—	—	—	—	—	—	—
Methyl hydrazine (see Monomethyl hydrazine)	60-34-4	—	—	—	—	0.2	0.35	X
Methyl iodide	74-88-4	2.0	10	—	—	—	—	X
Methyl isoamyl ketone	110-12-3	50	240	—	—	—	—	—
Methyl isobutyl carbinol	108-11-2	25	100	40	165	—	—	X
Methyl isobutyl ketone (see Hexone)	—	—	—	—	—	—	—	—
Methyl isocyanate	624-83-9	0.02	0.05	—	—	—	—	X
Methyl isopropyl ketone	563-80-4	200	705	—	—	—	—	—
Methyl mercaptan	74-93-1	0.5	1.0	—	—	—	—	—
Methyl methacrylate	80-62-6	100	410	—	—	—	—	—
Methyl parathion	298-00-0	—	0.2	—	—	—	—	X
Methyl propyl ketone (see 2-Pentanone)	—	—	—	—	—	—	—	—
Methyl silicate	684-84-5	1.0	6.0	—	—	—	—	—
alpha-Methyl styrene	98-83-9	50	240	100	485	—	—	—
<del>(Methylene bisphenyl isocyanate (MDI))</del>	<del>101-68-8</del>	<del>—</del>	<del>—</del>	<del>—</del>	<del>—</del>	<del>0.02</del>	<del>0.2</del>	<del>—</del>
Mevinphos (see Phosdrin)	—	—	—	—	—	—	—	—
Metribuzin	21087-64-9	—	5.0	—	—	—	—	—
Mica (see Silicates)	—	—	—	—	—	—	—	—

Molybdenum (as Mo)	7439-98-7	—	—	—	—	—	—	—
Soluble compounds	—	—	5.0	—	—	—	—	—
Insoluble compounds	—	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Monocrotophos (Azodrin)	6923-22-4	—	0.25	—	—	—	—	—
Monomethyl aniline	100-61-8	0.5	2.0	—	—	—	—	X
Monomethyl hydrazine	—	—	—	—	—	0.2	0.35	—
Morpholine	110-91-8	20	70	30	105	—	—	X
Naled	300-76-5	—	3.0	—	—	—	—	X
Naphtha (Coal tar)	8030-30-6	100	400	—	—	—	—	X
Naphthalene	91-20-3	10	50	15	75	—	—	—
alpha-Naphthylamine	134-32-7	—	—	—	—	—	—	—
(see WAC 296-62-073)	—	—	—	—	—	—	—	—
beta-Naphthylamine	91-59-8	—	—	—	—	—	—	—
(see WAC 296-62-073)	—	—	—	—	—	—	—	—
Neon	7440-01-9	Simple	Asphyxiant	—	—	—	—	—
Nickel carbonyl (as Ni)	13463-39-3	0.001	0.007	—	—	—	—	—
Nickle, (as Ni)	7440-02-0	—	—	—	—	—	—	—
Metal and insoluble compounds	—	—	1.0	—	—	—	—	—
Soluble compounds	—	—	0.1	—	—	—	—	—
Nicotine	54-11-5	—	0.5	—	—	—	—	X
Nitrapyrin (see 2-Chloro-6 trichloromethyl pyridine)	1929-82-4	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Nitric acid	7697-37-2	2.0	5.0	4.0	10	—	—	—
Nitric oxide	10102-43-9	25	30	—	—	—	—	—
p-Nitroaniline	100-01-6	—	3.0	—	—	—	—	X
Nitrobenzene	98-95-3	1.0	5.0	—	—	—	—	X
4-Nitrobiphenyl	92-93-3	—	—	—	—	—	—	—
(see WAC 296-62-073)	—	—	—	—	—	—	—	—
p-Nitrochlorobenzene	100-00-5	—	0.5	—	—	—	—	X
4-Nitrodiphenyl	—	—	—	—	—	—	—	—
(see WAC 296-62-073)	—	—	—	—	—	—	—	—
Nitroethane	79-24-3	100	310	—	—	—	—	—
Nitrogen	7727-37-9	Simple	Asphyxiant	—	—	—	—	—
Nitrogen dioxide	10102-44-0	—	—	1.0	1.8	—	—	—
Nitrogen trifluoride	7783-54-2	10	29	—	—	—	—	—
Nitroglycerin	55-63-0	—	—	—	0.1	—	—	X
Nitromethane	75-52-5	100	250	—	—	—	—	—
1-Nitropropane	108-03-2	25	90	—	—	—	—	—
2-Nitropropane	79-46-9	10	35	—	—	—	—	—
N-Nitrosodimethylamine	62-75-9	—	—	—	—	—	—	—
(see WAC 296-62-073)	—	—	—	—	—	—	—	—
Nitrotoluene:	—	—	—	—	—	—	—	—
o-isomer	88-72-2	2.0	11	—	—	—	—	X
m-isomer	98-08-2	2.0	11	—	—	—	—	X
p-isomer	99-99-0	2.0	11	—	—	—	—	X
<del>(Nitrotetrachloromethane)</del>	—	—	—	—	—	—	—	—
<u>Nitrotrichloromethane</u>	—	—	—	—	—	—	—	—
(see Chloropicrin)	—	—	—	—	—	—	—	—
Nitrous Oxide	10024-97-2	50	90	—	—	—	—	—
(Nitrogen oxide)	—	—	—	—	—	—	—	—
Nonane	111-84-2	200	1,050	—	—	—	—	—
Octachloronaphthalene	2234-13-1	—	0.1	—	0.3	—	—	X
Octane	111-65-9	300	1,450	375	1,800	—	—	—
Oil mist, mineral (particulate)	8012-95-1	—	5.0	—	—	—	—	—
Osmium tetroxide (as Os)	20816-12-0	0.0002	0.002	0.0006	0.006	—	—	—
Oxalic acid	144-62-7	—	1.0	—	2.0	—	—	—
Oxygen difluoride	7783-41-7	—	—	—	—	0.05	0.1	—
Ozone	10028-15-6	0.1	0.2	0.3	0.6	—	—	—

Paraffin wax fume	8002-74-2	—	2.0	—	—	—	—	—
Paraquat (Respirable dust)	4685-14-7	—	0.1	—	—	—	—	X
	1910-42-5	—	—	—	—	—	—	—
	2074-50-2	—	—	—	—	—	—	—
Parathion	56-38-2	—	0.1	—	—	—	—	X
Particulate polycyclic aromatic hydrocarbons (see coal tar pitch volatiles)	—	—	—	—	—	—	—	—
Particulates not otherwise regulated (see WAC 296-62-07510)	—	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Pentaborane	19624-22-7	0.005	0.01	0.015	0.03	—	—	—
Pentachloronaphthalene	1321-64-8	—	0.5	—	—	—	—	X
Pentachlorophenol	87-86-5	—	0.5	—	—	—	—	X
Pentaerythritol	115-77-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Pentane	109-66-0	600	1,800	750	2,250	—	—	—
2-Pentanone (methyl propyl ketone)	107-87-9	200	700	250	875	—	—	—
Perchloroethylene (tetrachloroethylene)	127-18-4	25	170	—	—	—	—	—
Perchloromethyl mercaptan	594-42-3	0.1	0.8	—	—	—	—	—
Perchloryl fluoride	7616-94-6	3.0	14	6.0	28	—	—	—
Perlite	—	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Petroleum distillates (Naptha) (Rubber Solvent)	—	100	400	—	—	—	—	—
Phenol	108-95-2	5.0	19	—	—	—	—	X
Phenothiazine	92-84-2	—	5.0	—	—	—	—	X
p-Phenylene diamine	106-50-3	—	0.1	—	—	—	—	X
Phenyl ether (vapor)	101-84-8	1.0	7.0	—	—	—	—	—
Phenyl ether-diphenyl mixture (vapor)	—	1.0	7.0	—	—	—	—	—
Phenylethylene, (see Styrene)	—	—	—	—	—	—	—	—
Phenyl glycidyl ether (PGE)	122-60-1	1.0	6.0	—	—	—	—	—
Phenylhydrazine	100-63-0	5.0	20	10	45	—	—	X
Phenyl mercaptan	108-98-5	0.5	2.0	—	—	—	—	—
Phenylphosphine	638-21-1	—	—	—	—	0.05	0.25	—
Phorate	298-02-2	—	0.05	—	0.2	—	—	X
Phosdrin (Mevinphos)	7786-34-7	0.01	0.1	0.03	0.3	—	—	X
Phosgene (carbonyl chloride)	75-44-5	0.1	0.4	—	—	—	—	—
Phosphine	7803-51-2	0.3	0.4	1.0	1.0	—	—	—
Phosphoric acid	7664-38-2	—	1.0	—	3.0	—	—	—
Phosphorus (yellow)	7723-14-0	—	0.1	—	—	—	—	—
Phosphorous oxychloride	10025-87-3	0.1	0.6	—	—	—	—	—
Phosphorus pentachloride	10026-13-8	0.1	1.0	—	—	—	—	—
Phosphorus pentasulfide	1314-80-3	—	1.0	—	3.0	—	—	—
Phosphorus trichloride	7719-12-2	0.2	1.5	0.5	3.0	—	—	—
Phthalic anhydride	85-44-9	1.0	6.0	—	—	—	—	—
m-Phthalodinitrile	626-17-5	—	5.0	—	—	—	—	—
Picloram	1918-02-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Picric acid	88-89-1	—	0.1	—	—	—	—	X
Pindone (see Pival) (2-Pivalyl-1, 3-indandione)	83-26-1	—	0.1	—	—	—	—	—
Piperazine dihydrochloride	142-64-3	—	5.0	—	—	—	—	—
Pival (see Pindone)	—	—	—	—	—	—	—	—

Plaster of Paris	26499-65-0	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Platinum (as Pt)	7440-06-4	—	—	—	—	—	—	—
Metal	—	—	1.0	—	—	—	—	—
Soluble salts	—	—	0.002	—	—	—	—	—
Polychlorobiphenyls (see Chlorodiphenyls)	—	—	—	—	—	—	—	—
Portland cement	65997-15-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Potassium hydroxide	1310-58-3	—	—	—	—	—	2.0	—
Propane	74-98-6	1,000	1,800	—	—	—	—	—
Propargyl alcohol	107-19-7	1.0	2.0	—	—	—	—	X
beta-Propiolactone (see WAC 296-62-073)	57-57-8	—	—	—	—	—	—	—
Propionic acid	79-09-4	10	30	—	—	—	—	—
Propoxur (Baygon)	114-26-1	—	0.5	—	—	—	—	—
n-Propyl acetate	109-60-4	200	840	250	1,050	—	—	—
n-Propyl alcohol	71-23-8	200	500	250	625	—	—	X
n-Propyl nitrate	627-13-4	25	105	40	170	—	—	—
Propylene	—	Simple	Asphyxiant	—	—	—	—	—
Propylene dichloride (1, 2-Dichloropropane)	78-87-5	75	350	110	510	—	—	—
Propylene glycol dinitrate	6423-43-4	0.05	0.3	—	—	—	—	X
Propylene glycol monomethyl ether	107-98-2	100	360	150	540	—	—	—
Propylene imine	75-55-8	2.0	5.0	—	—	—	—	X
Propylene oxide	75-56-9	20	50	—	—	—	—	—
Propyne, (see Methyl acetylene)	—	—	—	—	—	—	—	—
Pyrethrum	8003-34-7	—	5.0	—	—	—	—	—
Pyridine	110-86-1	5.0	15	—	—	—	—	—
Quinone	106-51-4	0.1	0.4	—	—	—	—	—
RDX (see Cyclonite)	—	—	1.5	—	—	—	—	X
Resorcinol	108-46-3	10	45	20	90	—	—	—
Rhodium (as Rh)	7440-16-6	—	—	—	—	—	—	—
Insoluble compounds, Metal fumes and dusts	—	—	0.1	—	—	—	—	—
Soluble compounds, salts	—	—	0.001	—	—	—	—	—
Ronnel	299-84-3	—	10	—	—	—	—	—
Rosin core solder, pyrolysis products (as formaldehyde)	—	—	0.1	—	—	—	—	—
Rotenone	83-79-4	—	5.0	—	—	—	—	—
Rouge	—	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Rubber solvent (naphtha)	8002-05-9	100	400	—	—	—	—	—
Selenium compounds (as Se)	7782-49-2	—	0.2	—	—	—	—	—
Selenium hexafluoride (as Se)	7783-79-1	0.05	0.2	—	—	—	—	—
Sesone (see Crag herbicide)	—	—	—	—	—	—	—	—
Silane (see Silicon tetrahydride)	—	—	—	—	—	—	—	—
Silica, amorphous, precipitated and gel	112926-00-8	—	6.0	—	—	—	—	—
Silica, amorphous, diatomaceous earth, containing less than 1% crystalline silica	61790-53-2	—	6.0	—	—	—	—	—
Total dust	—	—	6.0	—	—	—	—	—
Respirable fraction	—	—	3.0	—	—	—	—	—

PROPOSED

PROPOSED

Silica, crystalline cristobalite, respirable dust	14464-46-1	—	0.05	—	—	—	—	—
Silica, crystalline quartz, respirable dust	14808-60-7	—	0.1 g/ h/	—	—	—	—	—
Silica, crystalline tripoli (as quartz), respirable dust	1317-95-9	—	0.1	—	—	—	—	—
Silica, crystalline tridymite, respirable dust	15468-32-3	—	0.05	—	—	—	—	—
Silica, fused, respirable dust	60676-86-0	—	0.1	—	—	—	—	—
Silicates (less than 1% crystalline silica:								
Mica (Respirable dust)	12001-26-2	—	3.0	—	—	—	—	—
Soapstone, Total dust		—	6.0	—	—	—	—	—
Soapstone, Respirable dust		—	3.0	—	—	—	—	—
Talc (containing asbestos): use asbestos limit (see WAC 296-62-07517)								
Talc (containing no asbestos), Respirable dust	14807-96-6	—	2.0	—	—	—	—	—
Tremolite (see WAC 296-62-07517)								
Silicon	7440-21-3							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Silicon Carbide	409-21-2							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Silicon tetrahydride	7803-62-5	5.0	7.0	—	—	—	—	—
Silver, metal dust and soluble compounds (as Ag)	7440-22-4	—	0.01	—	—	—	—	—
Soapstone (see Silicates)	—	—	—	—	—	—	—	—
Sodium azide (as HN3)	26628-22-8	—	—	—	—	—	0.1	0.3
(as NaN3)		—	—	—	—	—	0.1	0.3
Sodium bisulfite	7631-90-5	—	5.0	—	—	—	—	—
Sodium-2, 4-dichlorophenoxyethyl sulfate (see Crag herbicide)	—	—	—	—	—	—	—	—
Sodium fluoroacetate	62-74-8	—	0.05	—	0.15	—	—	X
Sodium hydroxide	1310-73-2	—	—	—	—	—	2.0	—
Sodium metabisulfite	7681-57-4	—	5.0	—	—	—	—	—
Starch	9005-25-8							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Stibine	7803-52-3	0.1	0.5	—	—	—	—	—
Stoddard solvent	8052-41-3	100	525	—	—	—	—	—
Strychnine	57-24-9	—	0.15	—	—	—	—	—
Styrene	100-42-5	50	215	100	425	—	—	—
Subtilisins	9014-01-1	—	—	—	0.00006 (60 min.)j/	—	—	—
Sucrose	57-50-1							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Sulfotep (see TEDP)	—	—	—	—	—	—	—	X
Sulfur dioxide	7446-09-5	2.0	5.0	5.0	13	—	—	—
Sulfur hexafluoride	2551-62-4	1,000	6,000	—	—	—	—	—
Sulfuric acid	7664-93-9	—	1.0	—	—	—	—	—
Sulfur monochloride	10025-67-9	—	—	—	—	1.0	6.0	—

Sulfur pentafluoride	5714-22-1	—	—	—	—	0.01	0.1	—
Sulfur tetrafluoride	7783-60-0	—	—	—	—	0.1	0.4	—
Sulfuryl fluoride	2699-79-8	5.0	20	10	40	—	—	—
Sulprofos	35400-43-2	—	1.0	—	—	—	—	—
Systox (see Demeton)	—	—	—	—	—	—	—	—
2, 4, 5-T	93-76-5	—	10	—	—	—	—	—
Talc (see Silicates)	—	—	—	—	—	—	—	—
Tantalum	7440-25-7	—	5.0	—	—	—	—	—
Metal and oxide dusts								
TEDP (Sulfotep)	3689-24-5	—	0.2	—	—	—	—	X
Tellurium and compounds (as Te)	13494-80-9	—	0.1	—	—	—	—	—
Tellurium hexafluoride (as Te)	7783-80-4	0.02	0.2	—	—	—	—	—
Temephos	3383-96-8	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
TEPP	107-49-3	0.004	0.05	—	—	—	—	X
Terphenyls	26140-60-3	—	—	—	—	0.5	5.0	—
1, 1, 1, 2-Tetrachloro-2, 2-difluoroethane	76-11-0	500	4,170	—	—	—	—	—
1, 1, 2, 2-Tetrachloro-1, 2-difluoroethane	76-12-0	500	4,170	—	—	—	—	—
1, 1, 2, 2-Tetrachloroethane	79-34-5	1.0	7.0	—	—	—	—	X
Tetrachloroethylene (see Perchloroethylene)	—	—	—	—	—	—	—	—
Tetrachloromethane (see Carbon tetrachloride)	—	—	—	—	—	—	—	—
Tetrachloronaphthalene	1335-88-2	—	2.0	—	—	—	—	X
Tetraethyl lead (as Pb)	78-00-2	—	0.075	—	—	—	—	X
Tetrahydrofuran	109-99-9	200	590	250	735	—	—	—
Tetramethyl lead (as Pb)	75-74-1	—	0.075	—	—	—	—	X
Tetramethyl succinonitrile	3333-52-6	0.5	3.0	—	—	—	—	X
Tetranitromethane	509-14-8	1.0	8.0	—	—	—	—	—
Tetrasodium pyrophosphate	7722-88-5	—	5.0	—	—	—	—	—
Tetryl (2, 4, 6-trinitrophenyl- methylnitramine)	479-45-8	—	1.5	—	—	—	—	X
Thallium (soluble compounds) (as Tl)	7440-28-0	—	0.1	—	—	—	—	X
4, 4-Thiobis (6-tert-butyl-m-cresol)	96-69-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Thioglycolic acid	68-11-1	1.0	4.0	—	—	—	—	X
Thionyl chloride	7719-09-7	—	—	—	—	1.0	5.0	—
Thiram (see WAC 296-62-07519)	137-26-8	—	5.0	—	—	—	—	—
Tin (as Sn)	7440-31-5	—	2.0	—	—	—	—	—
Inorganic compounds (except oxides)								
Tin, Organic compounds (as Sn)	7440-31-5	—	0.1	—	—	—	—	X
Tin Oxide (as Sn)	21651-19-4	—	2.0	—	—	—	—	—
Titanium dioxide	13463-67-7	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Toulene	108-88-3	100	375	150	560	—	—	—
Toluene-2, 4-diisocyanate (TDI)	584-84-9	0.005	0.04	0.02	0.15	—	—	—
m-Toluidine	108-44-1	2.0	9.0	—	—	—	—	X
o-Toluidine	95-53-4	2.0	9.0	—	—	—	—	X
p-Toluidine	106-49-0	2.0	9.0	—	—	—	—	X
Toxaphene (see Chlorinated camphene)	—	—	—	—	—	—	—	—
Tremolite (see Silicates)	—	—	—	—	—	—	—	—
Tributyl phosphate	126-73-8	0.2	2.5	—	—	—	—	—
Trichloroacetic acid	76-03-9	1.0	7.0	—	—	—	—	—

1, 2, 4-Trichlorobenzene	120-82-1	—	—	—	—	5.0	40	—
1, 1, 1-Trichloroethane (see Methyl chloroform)	—	—	—	—	—	—	—	—
1, 1, 2-Trichloroethane	79-00-5	10	45	—	—	—	—	—
Trichloroethylene	79-01-6	50	270	200	1,080	—	—	—
Trichlorofluoromethane	75-69-4	—	—	—	—	1,000	5,600	—
Trichloromethane (see Chloroform)	—	—	—	—	—	—	—	—
Trichloronaphthalene	1321-65-9	—	5.0	—	—	—	—	X
1, 2, 3-Trichloropropane	96-18-4	10	60	—	—	—	—	X
1, 1, 2-Trichloro-1, 2, 2-trifluoroethane	76-13-1	1,000	7,600	1,250	9,500	—	—	—
Tricyclohexyltin hydroxide (see Cyhexatin)	—	—	—	—	—	—	—	—
Triethylamine	121-44-8	10	40	15	60	—	—	—
Trifluorobromomethane	75-63-8	1,000	6,100	—	—	—	—	—
Trimellitic anhydride	552-30-7	0.005	0.04	—	—	—	—	—
Trimethylamine	75-50-3	10	24	15	36	—	—	—
Trimethyl benzene	25551-13-7	25	125	—	—	—	—	—
Trimethyl phosphite	121-45-9	2.0	10	—	—	—	—	—
2, 4, 6-Trinitrophenol (see Picric acid)	—	—	—	—	—	—	—	—
2, 4, 6-Trinitrophenyl- methylnitramine (see Tetryl)	—	—	—	—	—	—	—	—
2, 4, 6-Trinitrotoluene (TNT)	118-96-7	—	0.5	—	—	—	—	X
Triorthocresyl phosphate	78-30-8	—	0.1	—	—	—	—	X
Triphenyl amine	603-34-9	—	5.0	—	—	—	—	—
Triphenyl phosphate	115-86-6	—	3.0	—	—	—	—	—
Tungsten (as W)	7440-33-7	—	—	—	—	—	—	—
Soluble compounds	—	—	1.0	—	3.0	—	—	—
Insoluble compounds	—	—	5.0	—	10	—	—	—
Turpentine	8006-64-2	100	560	—	—	—	—	—
Uranium (as U)	7440-61-1	—	—	—	—	—	—	—
Soluble compounds	—	—	0.05	—	—	—	—	—
Insoluble compounds	—	—	0.2	—	0.6	—	—	—
n-Valeraldehyde	110-62-3	50	175	—	—	—	—	—
Vanadium (as V2O5)	1314-62-1	—	0.05	—	—	—	—	—
Respirable dust and fume	—	—	—	—	—	—	—	—
Vegetable oil mist	—	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Vinyl acetate	108-05-1	10	30	20	60	—	—	—
Vinyl benzene (see Styrene)	—	—	—	—	—	—	—	—
Vinyl bromide	593-60-2	5.0	20	—	—	—	—	—
Vinyl chloride	75-01-4	—	—	—	—	—	—	—
(see WAC 296-62-07329)	—	—	—	—	—	—	—	—
Vinyl ( <del>cyanide</del> ) cyanide (see Acrylonitrile)	—	—	—	—	—	—	—	—
Vinyl cyclohexene dioxide	106-87-6	10	60	—	—	—	—	X
Vinyl toluene	25013-15-4	50	240	—	—	—	—	—
Vinylidene chloride (1, 1-Dichloroethylene)	75-35-4	1.0	4.0	—	—	—	—	—
VM & P Naphtha	8032-32-4	300	1,350	400	1,800	—	—	—
Warfarin	81-81-2	—	0.1	—	—	—	—	—
Welding fumes f/ (total particulate)	—	—	5.0	—	—	—	—	—
Wood dust:	—	—	—	—	—	—	—	—
Nonallergenic;	—	—	—	—	—	—	—	—
All soft woods and hard woods except allergenics	—	—	5.0	—	10	—	—	—

Allergenic; (e.g. cedar, mahogany and teak)	—	—	2.5	—	—	—	—	—
Xylenes(Xylol) (o-, m-, p-isomers)	1330-20-7	100	435	150	655	—	—	—
m-Xylene alpha, alpha-diamine	1477-55-0	—	—	—	—	—	0.1	X
Xylidine	1300-73-8	2.0	10	—	—	—	—	X
Yttrium	7440-65-5	—	1.0	—	—	—	—	—
Zinc chloride fume	7646-85-7	—	1.0	—	2.0	—	—	—
Zinc chromate (as CrO3)	Varies	—	0.05	—	—	—	0.1	—
Zinc oxide	1314-13-2	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Zinc oxide fume	1314-13-2	—	5.0	—	10	—	—	—
Zinc stearate	557-05-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5.0	—	—	—	—	—
Zirconium compounds (as Zr)	7440-67-2	—	5.0	—	10	—	—	—

- Notes: a/ Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm. Hg. pressure (torr).
- b/ Milligrams of substance per cubic meter of air. When a numerical entry for a substance is in the mg/m<sup>3</sup> column and not in the ppm column, then the number in the mg/m<sup>3</sup> column is exact. When numerical entries for a substance are in both the ppm and mg/m<sup>3</sup> columns, then the number in the ppm column is exact and the number in the mg/m<sup>3</sup> column may be rounded off.
- c/ Duration is for 15 minutes, unless otherwise noted.
- d/ The final benzene standard in WAC 296-62-07523 applies to all occupational exposures to benzene except some sub-segments of industry where exposures are consistently under the action level (i.e., distribution and sale of fuels, sealed containers and pipelines, coke production, oil and gas drilling and production, natural gas processing, and the percentage exclusion for liquid mixtures).
- e/ This 8-hour TWA applies to respirable dust as measured by a vertical elutriator cotton dust sampler or equivalent instrument. The time-weighted average applies to the cotton waste processing operations of waste recycling (sorting, blending, cleaning, and willowing) and garretting. See also WAC 296-62-14533 for cotton dust limits applicable to other sectors.
- f/ As determined from breathing-zone air samples.
- g/ Total dust formula for Silica (as quartz) is:  

$$\left( \frac{30 \text{ mg/m}^3}{\% \text{ SiO}_2 + 3} \right)$$

$$\frac{30 \text{ mg/m}^3}{\% \text{ SiO}_2 + 3}$$

h/ Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

Aerodynamic diameter (unit_density_sphere)	Percent_passing_selector
2	90
2.5	75
3.5	50
5.0	25
10	0

((containing less than 1% quartz. If 1% quartz, use quartz limit.

~~The measurements under this note refer to the use of an AEC (now NRC) instrument. The respirable fraction of coal dust is determined with an MRE the figure corresponding to that of 2.4 mg/m<sup>3</sup> in the table for coal dust is 4.5 mg/m<sup>3</sup>.)~~

- Notes: i/ The CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound measured as the metal, the CAS number for the metal is given — not CAS numbers for the individual compounds.
- j/ Compliance with the subtilisins PEL is assessed by sampling with a high volume sampler (600-800 liters per minute) for at least 60 minutes.
- m/ Sampling for the carbon monoxide ceiling shall be averaged over 5 minutes but an instantaneous reading over 1500 ppm shall not be exceeded.

((TABLE 2  
TRANSITIONAL LIMITS

~~The transitional limits listed are in effect until December 31, 1992. These limits require the use of engineering controls,~~

PROPOSED

where feasible, the additional protection to achieve the more protective limits listed in Table 1 may be achieved using protective control measures as set forth in WAC 296-62-07501(3).

PROPOSED

Substance	PEL		Acceptable Ceiling Concentration	
	ppm	mg/m <sup>3</sup>	ppm	mg/m <sup>3</sup>
Carbon disulfide	10		15	
Carbon monoxide	50	55		
Carbon tetrachloride	5.0		20	
Chloroform (Trichloro-methane)	10	50	50	240
Coal dust respirable (less than 5% SiO <sub>2</sub> )		2.4		
Cobalt metal, dust and fume (as Co)		0.1		
Ethylene dichloride	10		15	
Ethylene glycol dinitrate	0.05	0.3	0.2	1.0
Nitrogen dioxide			5.0	9.0
Nitroglycerin	0.05	0.5	0.2	2.0
Perchloroethylene (Tetra-chloroethylene)	50		200	
Styrene	100		200	

(5) Protective clothing. All persons entering a regulated area shall be supplied with and required to wear protective clothing, selected in accordance with WAC 296-62-07717.

(6) Prohibited activities. The employer shall ensure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in the regulated areas.

(7) Permit-required confined space. The employer shall determine if a permit-required confined space hazard exists and shall take any necessary precautions in accordance with chapter 296-62 WAC Part M.

(8) Competent persons. For construction and shipyard work the employer shall ensure that all asbestos work performed within regulated areas is supervised by a competent person, as defined in WAC 296-62-07703. The duties of the competent person are set out in WAC 296-62-07728.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07712 Requirements for asbestos activities in construction and shipyard work.** (1) Methods of compliance, the following engineering controls and work practices of this section shall be used for construction work defined in WAC 296-155-012 and for all ship repair defined in WAC 296-304-010.

(2) Engineering controls and work practices for all operations covered by this section. The employer shall use the following engineering controls and work practices in all operations covered by this section, regardless of the levels of exposure:

(a) Vacuum cleaners equipped with HEPA filters to collect all debris and dust containing ACM and PACM, except as provided in subsection (10)(b) of this section in the case of roofing material.

(b) Wet methods, or wetting agents, to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup, except where employers demonstrate that the use of wet methods is infeasible due to, for example, the creation of electrical hazards, equipment malfunction, and, in roofing, except as provided in subsection (10)(b) of this section.

(c) Asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet saturated state to prevent the emission of airborne fibers unless the usefulness of the product would be diminished thereby.

(d) Prompt cleanup and disposal of wastes and debris contaminated with asbestos in leak-tight containers except in roofing operations, where the procedures specified in this section apply.

(3) In addition to the requirements of subsection (2) of this section, the employer shall use the following control methods to achieve compliance with the TWA permissible exposure limit and excursion limit prescribed by WAC 296-62-07705:

(a) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(b) Enclosure or isolation of processes producing asbestos dust;

(c) Ventilation of the regulated area to move contaminated air away from the breathing zone of employees and

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07711 Regulated areas.** (1) General. The employer shall establish a regulated area in work areas where airborne concentrations of asbestos exceed or can reasonably be expected to exceed the permissible exposure limits prescribed in WAC 296-62-07705. All Class I, II and III asbestos work shall be conducted within regulated areas. All other operations covered by this standard shall be conducted within the regulated area where airborne concentrations of asbestos exceed or can reasonably be expected to exceed permissible exposure limits. Regulated areas shall comply with the requirements of subsections (2), (3), (4), (5), (6), (7), and (8) of this section.

(2) Demarcation. The regulated area shall be demarcated in any manner that minimizes the number of persons within the area and protects persons outside the area from exposure to airborne asbestos. Where critical barriers or negative pressure enclosures are used, they may demarcate the regulated area. Signs shall be provided and displayed pursuant to the requirements of WAC 296-62-07721.

(3) Access. Access to regulated areas shall be limited to authorized persons or to persons authorized by the Washington Industrial Safety and Health Act or regulations issued pursuant thereto.

(4) Provision of respirators. Each person entering a regulated area where employees are required in WAC 296-62-07715(1) to wear respirators shall be supplied with and required to use a respirator, selected in accordance with WAC 296-62-07715(2).

toward a filtration or collection device equipped with a HEPA filter;

(d) Use of other work practices and engineering controls that the department can show to be feasible;

(e) Wherever the feasible engineering and work practice controls described above are not sufficient to reduce employee exposure to or below the permissible exposure limit and/or excursion limit prescribed in WAC 296-62-07705, the employer shall use them to reduce employee exposure to the lowest levels attainable by these controls and shall supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-07715.

(4) Prohibitions. The following work practices and engineering controls shall not be used for work related to asbestos or for work which disturbs ACM or PACM, regardless of measured levels of asbestos exposure or the results of initial exposure assessments:

(a) High-speed abrasive disc saws that are not equipped with point or cut ventilator or enclosures with HEPA filtered exhaust air;

(b) Compressed air used to remove asbestos, or materials containing asbestos, unless the compressed air is used in conjunction with an enclosed ventilation system designed to capture the dust cloud created by the compressed air;

(c) Dry sweeping, shoveling or other dry cleanup of dust and debris containing ACM and PACM;

(d) Employee rotation as a means of reducing employee exposure to asbestos.

(5) Cleanup.

(a) After completion of asbestos removal, demolition, and renovation operations, all surfaces in and around the work area shall be cleared of any asbestos debris.

(b) Lock-down. Where asbestos has been removed, encapsulant shall be applied to ensure binding of remaining fibers.

(c) The employer shall demonstrate by monitoring that the airborne fiber concentration is below the permissible exposure limits; or, at or below the airborne fiber level existing prior to the start of the removal, demolition, or renovation project; whichever level is lower.

(6) Class I requirements. The following engineering controls and work practices and procedures shall be used:

(a) All Class I work, including the installation and operation of the control system shall be supervised by a competent person as defined in WAC 296-62-07703;

(b) For all Class I jobs involving the removal of more than 25 linear or 10 square feet of thermal system insulation or surfacing material; for all other Class I jobs, where the employer cannot produce a negative exposure assessment pursuant to WAC 296-62-07709(3), or where employees are working in areas adjacent to the regulation area, while the Class I work is being performed, the employer shall use one of the following methods to ensure that airborne asbestos does not migrate from the regulated area:

(i) Critical barriers shall be placed over all the openings to the regulated area, except where activities are performed outdoors; or

(ii) The employer shall use another barrier or isolation method which prevents the migration of airborne asbestos from the regulated area, as verified by perimeter area surveillance during each work shift at each boundary of the

regulated area, showing no visible asbestos dust; and perimeter area monitoring showing that clearance levels contained in 40 CFR Part 763, Subpart E, of the EPA Asbestos in Schools Rule are met, or that perimeter area levels, measured by Phase Contrast Microscopy (PCM) are no more than background levels representing the same area before the asbestos work began. The results of such monitoring shall be made known to the employer no later than 24 hours from the end of the work shift represented by such monitoring. Exception: For work completed outdoors where employees are not working in areas adjacent to the regulated areas, (a) of this subsection is satisfied when the specific control methods in subsection (7) of this section are used;

(c) For all Class I jobs, HVAC systems shall be isolated in the regulated area by sealing with a double layer of 6 mil plastic or the equivalent;

(d) For all Class I jobs, impermeable dropcloths shall be placed on surfaces beneath all removal activity;

(e) For all Class I jobs, all objects within the regulated area shall be covered with impermeable dropcloths or plastic sheeting which is secured by duct tape or an equivalent;

(f) For all Class I jobs where the employer cannot produce a negative exposure assessment, or where exposure monitoring shows that a PEL is exceeded, the employer shall ventilate the regulated area to move contaminated air away from the breathing zone of employees toward a HEPA filtration or collection device.

(7) Specific control methods for Class I work. In addition, Class I asbestos work shall be performed using one or more of the following control methods pursuant to the limitations stated below:

(a) Negative pressure enclosure (NPE) systems: NPE systems may be used where the configuration of the work area does not make the erection of the enclosure infeasible, with the following specifications and work practices:

(i) Specifications:

(A) The negative pressure enclosure (NPE) may be of any configuration;

(B) At least 4 air changes per hour shall be maintained in the NPE;

(C) A minimum of -0.02 column inches of water pressure differential, relative to outside pressure, shall be maintained within the NPE as evidenced by manometric measurements;

(D) The NPE shall be kept under negative pressure throughout the period of its use; and

(E) Air movement shall be directed away from employees performing asbestos work within the enclosure, and toward a HEPA filtration or collection device.

(ii) Work practices:

(A) Before beginning work within the enclosure and at the beginning of each shift, the NPE shall be inspected for breaches and smoke-tested for leaks, and any leaks sealed.

(B) Electrical circuits in the enclosure shall be deactivated, unless equipped with ground-fault circuit interrupters.

(b) Glove bag systems may be used to remove PACM and/or ACM from straight runs of piping and elbows and other connections with the following specifications and work practices:

(i) Specifications:

(A) Glove bags shall be made of 6 mil thick plastic and shall be seamless at the bottom.

(B) Glove bags used on elbows and other connections must be designed for that purpose and used without modifications.

(ii) Work practices:

(A) Each glove bag shall be installed so that it completely covers the circumference of pipe or other structure where the work is to be done.

(B) Glove bags shall be smoke-tested for leaks and any leaks sealed prior to use.

(C) Glove bags may be used only once and may not be moved.

(D) Glove bags shall not be used on surfaces whose temperature exceeds 150°F.

(E) Prior to disposal, glove bags shall be collapsed by removing air within them using a HEPA vacuum.

(F) Before beginning the operation, loose and friable material adjacent to the glove bag/box operation shall be wrapped and sealed in two layers of six mil plastic or otherwise rendered intact.

(G) Where system uses attached waste bag, such bag shall be connected to collection bag using hose or other material which shall withstand pressure of ACM waste and water without losing its integrity.

(H) Sliding valve or other device shall separate waste bag from hose to ensure no exposure when waste bag is disconnected.

(I) At least two persons shall perform Class I glove bag removal operations.

(c) Negative pressure glove bag systems. Negative pressure glove bag systems may be used to remove ACM or PACM from piping.

(i) Specifications: In addition to specifications for glove bag systems above, negative pressure glove bag systems shall attach HEPA vacuum systems or other devices to bag during removal.

(ii) Work practices:

(A) The employer shall comply with the work practices for glove bag systems in this section.

(B) The HEPA vacuum cleaner or other device used during removal shall run continually during the operation until it is completed at which time the bag shall be collapsed prior to removal of the bag from the pipe.

(C) Where a separate waste bag is used along with a collection bag and discarded after one use, the collection bag may be reused if rinsed clean with amended water before reuse.

(d) Negative pressure glove box systems: Negative pressure glove boxes may be used to remove ACM or PACM from pipe runs with the following specifications and work practices:

(i) Specifications:

(A) Glove boxes shall be constructed with rigid sides and made from metal or other material which can withstand the weight of the ACM and PACM and water used during removal.

(B) A negative pressure generator shall be used to create negative pressure in the system.

(C) An air filtration unit shall be attached to the box.

(D) The box shall be fitted with gloved apertures.

(E) An aperture at the base of the box shall serve as a bagging outlet for waste ACM and water.

(F) A back-up generator shall be present on site.

(G) Waste bags shall consist of 6 mil thick plastic double-bagged before they are filled or plastic thicker than 6 mil.

(ii) Work practices:

(A) At least two persons shall perform the removal.

(B) The box shall be smoke-tested for leaks and any leaks sealed prior to each use.

(C) Loose or damaged ACM adjacent to the box shall be wrapped and sealed in two layers of 6 mil plastic prior to the job, or otherwise made intact prior to the job.

(D) A HEPA filtration system shall be used to maintain pressure barrier in box.

(e) Water spray process system. A water spray process system may be used for removal of ACM and PACM from cold line piping if, employees carrying out such process have completed a 40-hour separate training course in its use, in addition to training required for employees performing Class I work. The system shall meet the following specifications and shall be performed by employees using the following work practices:

(i) Specifications:

(A) Piping shall be surrounded on 3 sides by rigid framing.

(B) A 360 degree water spray, delivered through nozzles supplied by a high pressure separate water line, shall be formed around the piping.

(C) The spray shall collide to form a fine aerosol which provides a liquid barrier between workers and the ACM and PACM.

(ii) Work practices:

(A) The system shall be run for at least 10 minutes before removal begins.

(B) All removal shall take place within the water barrier.

(C) The system shall be operated by at least three persons, one of whom shall not perform removal, but shall check equipment, and ensure proper operation of the system.

(D) After removal, the ACM and PACM shall be bagged while still inside the water barrier.

(f) A small walk-in enclosure which accommodates no more than two persons (mini-enclosure) may be used if the disturbance or removal can be completely contained by the enclosure with the following specifications and work practices:

(i) Specifications:

(A) The fabricated or job-made enclosure shall be constructed of 6 mil plastic or equivalent.

(B) The enclosure shall be placed under negative pressure by means of a HEPA filtered vacuum or similar ventilation unit.

(C) Change room. A small change room made of 6-mil-thick polyethylene plastic should be contiguous to the mini-enclosure, and is necessary to allow the worker to vacuum off his/her protective coveralls and remove them before leaving the work area. While inside the enclosure, the worker should wear Tyvek disposable coveralls and use the appropriate HEPA-filtered dual cartridge respiratory protection. The advantages of mini-enclosures are that they

limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of mini-enclosures is that they may be too small to contain the equipment necessary to create a negative-pressure within the enclosure; however, the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

(ii) Work practices:

(A) Before use, the mini-enclosure shall be inspected for leaks and smoke-tested to detect breaches, and any breaches sealed.

(B) Before reuse, the interior shall be completely washed with amended water and HEPA-vacuumed.

(C) During use, air movement shall be directed away from the employee's breathing zone within the mini-enclosure.

(8) Alternative control methods for Class I work. Class I work may be performed using a control method which is not referenced in subsection (2)(a) through (3)(e) of this section, or which modifies a control method referenced in subsection (2)(a) through (3)(e) of this section, if the following provisions are complied with:

(a) The control method shall enclose, contain or isolate the processes or source of airborne asbestos dust, or otherwise capture or redirect such dust before it enters the breathing zone of employees.

(b) A certified industrial hygienist or licensed professional engineer who is also qualified as a project designer as defined in WAC 296-62-07703, shall evaluate the work area, the projected work practices and the engineering controls and shall certify in writing that the planned control method is adequate to reduce direct and indirect employee exposure to below the PELs under worst-case conditions of use, and that the planned control method will prevent asbestos contamination outside the regulated area, as measured by clearance sampling which meets the requirements of EPA's Asbestos in Schools rule issued under AHERA, or perimeter monitoring which meets the criteria in subsection (6)(b)(ii) of this section. Where the TSI or surfacing material to be removed is 25 linear or 10 square feet or less, the evaluation required in subsection (8)(b) of this section may be performed by a competent person.

(c) Before work which involves the removal of more than 25 linear or 10 square feet of thermal system insulation or surfacing material is begun using an alternative method which has been the subject of subsection (2)(a) through (3)(e) of this section required evaluation and certification, the employer shall send a copy of such evaluation and certification to the Department of Labor and Industries, Asbestos Certification Program, P.O. Box 44614, Olympia, Washington 98504-4614. The submission shall not constitute approval by WISHA.

(9) Work practices and engineering controls for Class II work.

(a) All Class II work shall be supervised by a competent person as defined in WAC 296-62-07703.

(b) For all indoor Class II jobs, where the employer has not produced a negative exposure assessment pursuant to WAC 296-62-07709(3), or where during the job, changed conditions indicate there may be exposure above the PEL or

where the employer does not remove the ACM in a substantially intact state, the employer shall use one of the following methods to ensure that airborne asbestos does not migrate from the regulated area:

(i) Critical barriers shall be placed over all openings to the regulated area; or

(ii) The employer shall use another barrier or isolation method which prevents the migration of airborne asbestos from the regulated area, as verified by perimeter area monitoring or clearance monitoring which meets the criteria set out in subsection (6)(b)(ii) of this section; or

(iii) Impermeable dropcloths shall be placed on surfaces beneath all removal activity.

(c) (Reserved.)

(d) All Class II asbestos work shall be performed using the work practices and requirements set out above in subsection (9)(a) and (b) of this section.

(10) Additional controls for Class II work. Class II asbestos work shall also be performed by complying with the work practices and controls designated for each type of asbestos work to be performed, set out in this paragraph. Where more than one control method may be used for a type of asbestos work, the employer may choose one or a combination of designated control methods. Class II work also may be performed using a method allowed for Class I work, except that glove bags and glove boxes are allowed if they fully enclose the Class II material to be removed.

(a) For removing vinyl and asphalt flooring materials which contain ACM or for which in buildings constructed no later than 1980, the employer has not verified the absence of ACM pursuant to WAC 296-62-07712 ~~((9))~~ (10)(a)(ix). The employer shall ensure that employees comply with the following work practices and that employees are trained in these practices pursuant to WAC 296-62-07722.

(i) Flooring or its backing shall not be sanded.

(ii) Vacuums equipped with HEPA filter, disposable dust bag, and metal floor tool (no brush) shall be used to clean floors.

(iii) Resilient sheeting shall be removed by cutting with wetting of the snip point and wetting during delamination. Rip-up of resilient sheet floor material is prohibited.

(iv) All scraping of residual adhesive and/or backing shall be performed using wet methods.

(v) Dry sweeping is prohibited.

(vi) Mechanical chipping is prohibited unless performed in a negative pressure enclosure which meets the requirements of subsection (7)(a) of this section.

(vii) Tiles shall be removed intact, unless the employer demonstrates that intact removal is not possible.

(viii) When tiles are heated and can be removed intact, wetting may be omitted.

(ix) Resilient flooring material including associated mastic and backing shall be assumed to be asbestos-containing unless an industrial hygienist determines that it is asbestos-free using recognized analytical techniques.

(b) For removing roofing material which contains ACM the employer shall ensure that the following work practices are followed:

(i) Roofing material shall be removed in an intact state to the extent feasible.

(ii) Wet methods shall be used to remove roofing materials that are not intact, or that will be rendered not intact during removal, unless such wet methods are not feasible or will create safety hazards.

(iii) Cutting machines shall be continuously misted during use, unless a competent person determines that misting substantially decreases worker safety.

(iv) When removing built-up roofs with asbestos-containing roofing felts and an aggregate surface using a power roof cutter, all dust resulting from the cutting operation shall be collected by a HEPA dust collector, or shall be HEPA vacuumed by vacuuming along the cut line. When removing built-up roofs with asbestos-containing roofing felts and a smooth surface using a power roof cutter, the dust resulting from the cutting operation shall be collected either by a HEPA dust collector or HEPA vacuuming along the cut line, or by gently sweeping and then carefully and completely wiping up the still wet dust and debris left along the cut line. The dust and debris shall be immediately bagged or placed in covered containers.

(v) Asbestos-containing material that has been removed from a roof shall not be dropped or thrown to the ground. Unless the material is carried or passed to the ground by hand, it shall be lowered to the ground via covered, dust-tight chute, crane or hoist:

(A) Any ACM that is not intact shall be lowered to the ground as soon as is practicable, but in any event no later than the end of the work shift. While the material remains on the roof it shall either be kept wet, placed in an impermeable waste bag, or wrapped in plastic sheeting.

(B) Intact ACM shall be lowered to the ground as soon as is practicable, but in any event no later than the end of the work shift.

(vi) Upon being lowered, unwrapped material shall be transferred to a closed receptacle in such manner so as to preclude the dispersion of dust.

(vii) Roof level heating and ventilation air intake sources shall be isolated or the ventilation system shall be shut down.

(viii) Notwithstanding any other provision of this section, removal or repair of sections of intact roofing less than 25 square feet in area does not require use of wet methods or HEPA vacuuming as long as manual methods which do not render the material nonintact are used to remove the material and no visible dust is created by the removal method used. In determining whether a job involves less than 25 square feet, the employer shall include all removal and repair work performed on the same roof on the same day.

(c) When removing cementitious asbestos-containing siding and shingles or transite panels containing ACM on building exteriors (other than roofs, where subsection (10)(b) of this section applies) the employer shall ensure that the following work practices are followed:

(i) Cutting, abrading or breaking siding, shingles, or transite panels, shall be prohibited unless the employer can demonstrate that methods less likely to result in asbestos fiber release cannot be used.

(ii) Each panel or shingle shall be sprayed with amended water prior to removal.

(iii) Unwrapped or unbagged panels or shingles shall be immediately lowered to the ground via covered dust-tight chute, crane or hoist, or placed in an impervious waste bag or wrapped in plastic sheeting and lowered to the ground no later than the end of the work shift.

(iv) Nails shall be cut with flat, sharp instruments.

(d) When removing gaskets containing ACM, the employer shall ensure that the following work practices are followed:

(i) If a gasket is visibly deteriorated and unlikely to be removed intact, removal shall be undertaken within a glove bag as described in subsection (7)(b) of this section.

(ii) (Reserved.)

(iii) The gasket shall be immediately placed in a disposal container.

(iv) Any scraping to remove residue must be performed wet.

(e) When performing any other Class II removal of asbestos-containing material for which specific controls have not been listed in subsection (10) of this section, the employer shall ensure that the following work practices are complied with:

(i) The material shall be thoroughly wetted with amended water prior to and during its removal.

(ii) The material shall be removed in an intact state unless the employer demonstrates that intact removal is not possible.

(iii) Cutting, abrading or breaking the material shall be prohibited unless the employer can demonstrate that methods less likely to result in asbestos fiber release are not feasible.

(iv) Asbestos-containing material removed, shall be immediately bagged or wrapped, or kept wet until transferred to a closed receptacle, no later than the end of the work shift.

(f) Alternative work practices and controls. Instead of the work practices and controls listed in subsection (10) of this section, the employer may use different or modified engineering and work practice controls if the following provisions are complied with:

(i) The employer shall demonstrate by data representing employee exposure during the use of such method under conditions which closely resemble the conditions under which the method is to be used, that employee exposure will not exceed the PELs under any anticipated circumstances.

(ii) A competent person shall evaluate the work area, the projected work practices and the engineering controls, and shall certify in writing, that the different or modified controls are adequate to reduce direct and indirect employee exposure to below the PELs under all expected conditions of use and that the method meets the requirements of this standard. The evaluation shall include and be based on data representing employee exposure during the use of such method under conditions which closely resemble the conditions under which the method is to be used for the current job, and by employees whose training and experience are equivalent to employees who are to perform the current job.

(11) Work practices and engineering controls for Class III asbestos work. Class III asbestos work shall be conducted using engineering and work practice controls which minimize the exposure to employees performing the asbestos work and to bystander employees.

(a) The work shall be performed using wet methods.  
 (b) To the extent feasible, the work shall be performed using local exhaust ventilation.

(c) Where the disturbance involves drilling, cutting, abrading, sanding, chipping, braking, or sawing of thermal system insulation or surfacing material, the employer shall use impermeable dropcloths, and shall isolate the operation using mini-enclosures or glove bag systems pursuant to subsection (7) of this section or another isolation method.

(d) Where the employer does not produce a "negative exposure assessment" for a job, or where monitoring results show the PEL has been exceeded, the employer shall contain the area using impermeable dropcloths and plastic barriers or their equivalent, or shall isolate the operation using a control system listed in and in compliance with subsection (7) of this section.

(e) Employees performing Class III jobs, which involve the disturbance of thermal system insulation or surfacing material, or where the employer does not produce a "negative exposure assessment" or where monitoring results show a PEL has been exceeded, shall wear respirators which are selected, used and fitted pursuant to provisions of WAC 296-62-07715.

(12) Class IV asbestos work. Class IV asbestos jobs shall be conducted by employees trained pursuant to the asbestos awareness training program set out in WAC 296-62-07722. In addition, all Class IV jobs shall be conducted in conformity with the requirements set out in this section, mandating wet methods, HEPA vacuums, and prompt clean up of debris containing ACM and PACM.

(a) Employees cleaning up debris and waste in a regulated area where respirators are required shall wear respirators which are selected, used and fitted pursuant to provisions of WAC 296-62-07715.

(b) Employers of employees who clean up waste and debris in, and employers in control of, areas where friable thermal system insulation or surfacing material is accessible, shall assume that such waste and debris contain asbestos.

(13) Alternative methods of compliance for installation, removal, repair, and maintenance of certain roofing and pipeline coating materials. Notwithstanding any other provision of this section, an employer who complies with all provisions of subsection (10)(a) and (b) of this section when installing, removing, repairing, or maintaining intact pipeline asphaltic wrap, or roof cements, mastics, coatings, or flashings which contain asbestos fibers encapsulated or coated by bituminous or resinous compounds shall be deemed to be in compliance with this section. If an employer does not comply with all provisions of this subsection (13), or if during the course of the job the material does not remain intact, the provisions of subsection (10) of this section apply instead of this subsection (13).

(a) Before work begins and as needed during the job, a competent person who is capable of identifying asbestos hazards in the workplace and selecting the appropriate control strategy for asbestos exposure, and who has the authority to take prompt corrective measures to eliminate such hazards, shall conduct an inspection of the worksite and determine that the roofing material is intact and will likely remain intact.

(b) All employees performing work covered by this subsection (13) shall be trained in a training program that meets the requirements of WAC 296-62-07722.

(c) The material shall not be sanded, abraded, or ground. Manual methods which do not render the material nonintact shall be used.

(d) Material that has been removed from a roof shall not be dropped or thrown to the ground. Unless the material is carried or passed to the ground by hand, it shall be lowered to the ground via covered, dust-tight chute, crane or hoist. All such material shall be removed from the roof as soon as is practicable, but in any event no later than the end of the work shift.

(e) Where roofing products which have been labeled as containing asbestos pursuant to WAC 296-62-07721, installed on nonresidential roofs during operations covered by this subsection (13), the employer shall notify the building owner of the presence and location of such materials no later than the end of the job.

(f) All removal or disturbance of pipeline asphaltic wrap shall be performed using wet methods.

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07715 Respiratory protection.** (1) General. The employer shall provide respirators, and ensure that they are used, where required by WAC 296-62-077 through 296-62-07753. Respirators shall be used in the following circumstances:

(a) During the interval necessary to install or implement feasible engineering and work practice controls;

(b) In work operations, such as maintenance and repair activities, or other activities for which engineering and work practice controls are not feasible;

(c) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits;

(d) In emergencies;

(e) In all regulated areas, except for construction activities which follow requirements set forth in WAC 296-62-07715 (1)(g);

(f) Whenever employee exposure exceeds the permissible exposure limits;

(g) During ~~((all Class I asbestos jobs;))~~ the following construction activities:

~~((+))~~ (i) During all Class I asbestos jobs;

~~((+))~~ (ii) During all Class II work where the ACM is not removed in a substantially intact state;

~~((+))~~ (iii) During all Class II and Class III work which is not performed using wet methods, provided, however, that respirators need not be worn during removal of ACM from sloped roofs when a negative exposure assessment has been made and the ACM is removed in an intact state;

~~((+))~~ (iv) During all Class II and Class III asbestos jobs where the employer does not produce a "negative exposure assessment";

~~((+))~~ (v) During all Class III jobs where TSI or surfacing ACM or PACM is being disturbed; and

((4)) (vi) During all Class IV work performed within regulated areas where employees performing other work are required to wear respirators.

(2) Respirator selection.

(a) Where respirators are used, the employer shall select and provide, at no cost to the employee, the appropriate respirator as specified in Table 1 of this section or in WAC 296-62-07715(2), and shall ensure that the employee uses the respirator provided.

(b) The employer shall select respirators from among those jointly approved as being acceptable for protection by the Mine Safety and Health Administration (MSHA) and the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

(c) The employer shall provide a tight fitting powered, air-purifying respirator in lieu of any negative pressure respirator specified in Table 1 of this section whenever:

(i) An employee chooses to use this type of respirator; and

(ii) This respirator will provide adequate protection to the employee.

(d) The employer shall inform any employee required to wear a respirator under this subsection that the employee may require the employer to provide a powered air purifying respirator in lieu of a negative pressure respirator.

(e) In addition to the selection criterion below, the employer shall provide a half-mask air purifying respirator, other than a disposable respirator, equipped with high efficiency filters whenever the employee performs the following activities: Class II and III asbestos jobs where the employer does not produce a negative exposure assessment; and Class III jobs where TSI or surfacing ACM or PACM is being disturbed.

TABLE 1—RESPIRATORY PROTECTION FOR ASBESTOS FIBERS

Airborne concentration of asbestos or conditions of use	Required respirator. (See Note a.)
Not in excess of 1 f/cc (10 X PEL), or otherwise as required independent of exposure	Half-mask air-purifying respirator other than a disposable respirator, equipped with high efficiency filters. (See Note b.)
Not in excess of 5 f/cc (50 X PEL)	Full facepiece air-purifying respirator equipped with high efficiency filters.
Not in excess of 10 f/cc (100 X PEL)	Any powered air-purifying respirator equipped with high efficiency filters or any supplied-air respirator operated in continuous flow mode.
Not in excess of 100 f/cc (1,000 X PEL)	Full facepiece supplied-air respirator operated in pressure demand mode.
Greater than 100 f/cc (1,000 X PEL) or unknown concentration	Full facepiece supplied-air respirator operated in pressure demand mode, equipped with an auxiliary positive pressure self-contained breathing apparatus or HEPA filter egress cartridges. (See Note c.)

Note:

- a. Respirators assigned for higher environmental concentrations may be used at lower concentrations.
- b. A high-efficiency filter means a filter that is capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.
- c. See subsection (5)(c) of this section for fit testing requirements.

(3) Special respiratory protection requirements.

(a) Unless specifically identified in this subsection, respirator selection for asbestos removal, demolition, and renovation operations shall be in accordance with Table 1 of subsection (2) of this section. The employer shall provide and require to be worn, at no cost to the employee, a full

PROPOSED

facepiece supplied-air respirator operated in the pressure demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter egress cartridge, to employees engaged in the following asbestos operations:

(i) Inside negative pressure enclosures used for removal, demolition, and renovation of friable asbestos from walls, ceilings, vessels, ventilation ducts, elevator shafts, and other structural members, but does not include pipes or piping systems; or

(ii) Any dry removal of asbestos.

(b) For all Class I work excluded or not specified in (a)(i) and (ii) of this subsection, the employer shall provide a tight-fitting powered air purifying respirator equipped with high-efficiency filters or a full facepiece supplied-air respirator operated in the pressure demand mode equipped with HEPA filter egress cartridges or an auxiliary positive pressure self-contained breathing apparatus for all employees within the regulated area where asbestos work is being performed for which a negative exposure assessment has not been produced and, the exposure assessment indicates the exposure level will not exceed 1 f/cc as an 8-hour time weighted average. A full facepiece supplied-air respirator operated in the pressure demand mode equipped with an auxiliary positive pressure self-contained breathing apparatus, or a HEPA filter egress cartridge, shall be provided under such conditions, if the exposure assessment indicates exposure levels above 1 f/cc as an 8-hour time weighted average.

**Exception:** In lieu of the supplied-air respirator required by subsection (3) of this section, an employer may provide and require to be worn, at no cost to the employee, a full facepiece supplied-air respirator operated in the continuous flow mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a back-up HEPA filter egress cartridge where daily and historical personal monitoring data indicates the concentration of asbestos fibers is not reasonably expected to exceed 10 f/cc. The continuous flow respirator shall be operated at a minimum air flow rate of six cubic feet per minute at the facepiece using respirable air supplied in accordance with WAC 296-62-07111.

(4) Respirator program.

(a) Where respiratory protection is used, the employer shall institute a respirator program in accordance with WAC 296-62-071.

(b) The employer shall permit each employee who uses a filter respirator to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(c) Employees who wear respirators shall be permitted to leave work areas to wash their faces and respirator facepieces whenever necessary to prevent skin irritation associated with respirator use.

(d) No employee shall be assigned to tasks requiring the use of respirators if, based upon his or her most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by the use of a respirator. Such employee shall be assigned to another job or given the opportunity to transfer to a different position whose duties he

or she is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay the employee had just prior to such transfer, if such a different position is available.

(5) Respirator fit testing.

(a) The employer shall ensure that the respirator issued to the employee exhibits the least possible facepiece leakage and that the respirator is fitted properly.

(b) For each employee wearing negative pressure respirators, employers shall perform either quantitative or qualitative face fit tests at the time of initial fitting and at least every six months thereafter. The qualitative fit tests may be used only for testing the fit of half-mask respirators where they are permitted to be worn, and shall be conducted in accordance with WAC 296-62-07739, Appendix C. The tests shall be used to select facepieces that provide the required protection as prescribed in Table 1 of this section.

(c) Any supplied-air respirator facepiece equipped with a back-up HEPA filter egress cartridge shall be quantitatively fit tested with the air supply disconnected at the time of initial fitting and at least every six months thereafter. The quantitative fit tests shall be conducted using the procedures described in WAC 296-62-07739(2), Appendix C, for negative pressure respirators.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07717 Protective work clothing and equipment.** (1) Provision and use. If an employee is exposed to asbestos above the permissible exposure limits, or where the possibility of eye irritation exists, or for which a required negative exposure assessment is not produced and for any employee performing Class I operations, the employer shall provide at no cost to the employee and require that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

(a) Coveralls or similar full-body work clothing;

(b) Gloves, head coverings, and foot coverings; and

(c) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-24-07801.

(2) Removal and storage.

(a) The employer shall ensure that employees remove work clothing contaminated with asbestos only in change rooms provided in accordance with WAC 296-62-07719(1).

(b) The employer shall ensure that no employee takes contaminated work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(c) Contaminated clothing. Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and be labeled in accordance with WAC 296-62-07721.

(d) Containers of contaminated protective devices or work clothing which are to be taken out of change rooms or the workplace for cleaning, maintenance, or disposal, shall bear labels in accordance with WAC 296-62-07721((3))

(6).

(3) Cleaning and replacement.

(a) The employer shall clean, launder, repair, or replace protective clothing and equipment required by this paragraph to maintain their effectiveness. The employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(b) The employer shall prohibit the removal of asbestos from protective clothing and equipment by blowing or shaking.

(c) Laundering of contaminated clothing shall be done so as to prevent the release of airborne fibers of asbestos in excess of the permissible exposure limits prescribed in WAC 296-62-07705.

(d) Any employer who gives contaminated clothing to another person for laundering shall inform such person of the requirement in (c) of this subsection to effectively prevent the release of airborne fibers of asbestos in excess of the permissible exposure limits.

(e) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with asbestos of the potentially harmful effects of exposure to asbestos.

(f) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with WAC 296-62-07721.

(4) Inspection of protective clothing for construction and shipyard work.

(a) The competent person shall examine worksuits worn by employees at least once per workshift for rips or tears that may occur during performance of work.

(b) When rips or tears are detected while an employee is working, rips and tears shall be immediately mended, or the worksuit shall be immediately replaced.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07721 Communication of hazards to employees.** (1) Communication of hazards to employees. General industry requirements.

(a) Introduction. This section applies to the communication of information concerning asbestos hazards in general industry. Asbestos exposure in industry occurs in a wide variety of industrial and commercial settings. Employees who manufacture asbestos-containing products may be exposed to asbestos fibers. Employees who repair and replace automotive brakes and clutches may be exposed to asbestos fibers. In addition, employees engaged in housekeeping activities in industrial facilities with asbestos product manufacturing operations, and in public and commercial buildings with installed asbestos-containing materials may be exposed to asbestos fibers. It should be noted that employees who perform housekeeping activities during and after construction activities are covered by asbestos construction work requirements in WAC 296-62-077. Housekeeping employees, regardless of industry designation, should know whether building components they maintain may expose them to asbestos. Building owners are often the only and/or best source of information concerning the presence of previously installed asbestos-containing building materials. Therefore they, along with employers of potentially exposed

employees, are assigned specific information conveying and retention duties under this section.

(b) Installed asbestos-containing material. Employers and building owners are required to treat installed TSI and sprayed-on and troweled-on surfacing materials as ACM for the purposes of this standard. These materials are designated "presumed ACM or PACM," and are defined in WAC 296-62-07703. Asphalt and vinyl flooring installed no later than 1980 also shall be treated as asbestos-containing. The employer or building owner may demonstrate that PACM and flooring materials do not contain asbestos by complying with WAC ((296-62-07721(3))) 296-62-07712 (10)(a)(ix).

(c) Duties of employers and building and facility owners.

(i) Building and facility owners shall determine the presence, location, and quantity of ACM and/or PACM at the worksite. Employers and building and facility owners shall exercise due diligence in complying with these requirements to inform employers and employees about the presence and location of ACM and PACM.

(ii) Before authorizing or allowing any construction, renovation, remodeling, maintenance, repair, or demolition project, an owner or owner's agent shall perform, or cause to be performed, a good faith inspection to determine whether materials to be worked on or removed contain asbestos. The inspection shall be documented by a written report maintained on file and made available upon request to the director.

(A) The good faith inspection shall be conducted by an accredited inspector.

(B) Such good faith inspection is not required if the owner or owner's agent is reasonably certain that asbestos will not be disturbed by the project or the owner or owner's agent assumes that the suspect material contains asbestos and handles the material in accordance with WAC 296-62-07701 through 296-62-07753.

(iii) The owner or owner's agent shall provide, to all contractors submitting a bid to undertake any construction, renovation, remodeling, maintenance, repair, or demolition project, the written statement either of the reasonable certainty of nondisturbance of asbestos or of assumption of the presence of asbestos. Contractors shall be provided with the written report before they apply or bid to work.

(iv) Any owner or owner's agent who fails to comply with (c)(ii) and (iii) of this subsection shall be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues shall be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section shall be halted immediately and cannot be resumed before meeting such requirements.

(v) Building and facility owners shall inform employers of employees, and employers shall inform employees who will perform housekeeping activities in areas which contain ACM and/or PACM of the presence and location of ACM and/or PACM in such areas which may be contacted during such activities.

(vi) Upon written or oral request, building or facility owners shall make a copy of the written report required in this section available to the department of labor and indus-

tries and the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report shall be posted conspicuously at the location where employees report to work.

(vii) Building and facility owners shall maintain records of all information required to be provided pursuant to this section and/or otherwise known to the building owner concerning the presence, location and quantity of ACM and PACM in the building/facility. Such records shall be kept for the duration of ownership and shall be transferred to successive owners.

(2) Communication of hazards to employees. Requirements for construction and shipyard employment activities.

(a) Introduction. This section applies to the communication of information concerning asbestos hazards in construction and shipyard employment activities. Most asbestos-related construction and shipyard activities involve previously installed building materials. Building/vessel owners often are the only and/or best sources of information concerning them. Therefore, they, along with employers of potentially exposed employees, are assigned specific information conveying and retention duties under this section. Installed Asbestos Containing Building/Vessel Material: Employers and building/vessel owners shall identify TSI and sprayed or troweled on surfacing materials as asbestos-containing unless the employer, by complying with WAC 296-62-07721(3) determines it is not asbestos containing. Asphalt or vinyl flooring/decking material installed in buildings or vessels no later than 1980 shall also be considered as asbestos containing unless the employer/owner, pursuant to WAC ((~~296-62-07721(3)~~) 296-62-07712 (10)(a)(ix)) determines it is not asbestos containing. If the employer or building/vessel owner has actual knowledge or should have known, through the exercise of due diligence, that materials other than TSI and sprayed-on or troweled-on surfacing materials are asbestos containing, they shall be treated as such. When communicating information to employees pursuant to this standard, owners and employers shall identify "PACM" as ACM. Additional requirements relating to communication of asbestos work on multi-employer worksites are set out in WAC 296-62-07706.

(b) Duties of building/vessel and facility owners.

(i) Before work subject to this section is begun, building/vessel and facility owners shall identify the presence, location and quantity of ACM, and/or PACM at the work site. All thermal system insulation and sprayed on or troweled on surfacing materials in buildings/vessels or substrates constructed no later than 1980 shall be identified as PACM. In addition, resilient flooring/decking material installed no later than 1980 shall also be identified as asbestos containing.

(ii) Before authorizing or allowing any construction, renovation, remodeling, maintenance, repair, or demolition project, a building/vessel and facility owner or owner's agent shall perform, or cause to be performed, a good faith inspection to determine whether materials to be worked on or removed contain asbestos. The inspection shall be documented by a written report maintained on file and made available upon request to the director.

(A) The good faith inspection shall be conducted by an accredited inspector.

(B) Such good faith inspection is not required if the building/vessel and facility owner or owner's agent assumes that the suspect material contains asbestos and handles the material in accordance with WAC 296-62-07701 through 296-62-07753 or if the owner or the owner's agent is reasonably certain that asbestos will not be distributed by the project.

(iii) The building/vessel and facility owner or owner's agent shall provide, to all contractors submitting a bid to undertake any construction, renovation, remodeling, maintenance, repair, or demolition project, the written statement either of the reasonable certainty of nondisturbance of asbestos or of assumption of the presence of asbestos. Contractors shall be provided the written report before they apply or bid on work.

(iv) Any building/vessel and facility owner or owners agent who fails to comply with WAC 296-62-07719 (2)(b)(ii) and (iii) shall be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues shall be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section shall be halted immediately and cannot be resumed before meeting such requirements.

(v) Upon written or oral request, building/vessel and facility owner or owner's agent shall make a copy of the written report required in this section available to the department of labor and industries and the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report shall be posted conspicuously at the location where employees report to work.

(vi) Building/vessel and facility owner or owner's agent shall notify in writing the following persons of the presence, location and quantity of ACM or PACM, at work sites in their buildings/facilities/vessels.

(A) Prospective employers applying or bidding for work whose employees reasonably can be expected to work in or adjacent to areas containing such material;

(B) Employees of the owner who will work in or adjacent to areas containing such material;

(C) On multi-employer worksites, all employers of employees who will be performing work within or adjacent to areas containing such materials;

(D) Tenants who will occupy areas containing such materials.

(c) Duties of employers whose employees perform work subject to this standard in or adjacent to areas containing ACM and PACM. Building/vessel and facility owner or owner's agents whose employees perform such work shall comply with these provisions to the extent applicable.

(i) Before work subject to this standard is begun, building/vessel and facility owner or owner's agents shall determine the presence, location, and quantity of ACM and/or PACM at the work site pursuant to WAC 296-62-07721 (2)(b).

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(ii) Before work under this standard is performed employers of employees who will perform such work shall inform the following persons of the location and quantity of ACM and/or PACM present at the work site and the precautions to be taken to insure that airborne asbestos is confined to the area.

(A) Owners of the building/vessel or facility;

(B) Employees who will perform such work and employers of employees who work and/or will be working in adjacent areas;

(iii) Upon written or oral request, a copy of the written report required in this section shall be made available to the department of labor and industries and the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report shall be posted conspicuously at the location where employees report to work.

(iv) Within 10 days of the completion of such work, the employer whose employees have performed work subject to this standard, shall inform the building/vessel or facility owner and employers of employees who will be working in the area of the current location and quantity of PACM and/or ACM remaining in the former regulated area and final monitoring results, if any.

(d) In addition to the above requirements, all employers who discover ACM and/or PACM on a work site shall convey information concerning the presence, location and quantity of such newly discovered ACM and/or PACM to the owner and to other employers of employees working at the work site, within 24 hours of the discovery.

(e) No contractor may commence any construction, renovation, remodeling, maintenance, repair, or demolition project without receiving a copy of the written response or statement required by WAC 296-62-07721 (2)(b). Any contractor who begins any project without the copy of the written report or statement shall be subject to a mandatory fine of not less than two hundred fifty dollars per day. Each day the violation continues shall be considered a separate violation.

(3) Criteria to rebut the designation of installed material as PACM.

(a) At any time, an employer and/or building/vessel owner may demonstrate, for purposes of this standard, that PACM does not contain asbestos. Building/vessel owners and/or employers are not required to communicate information about the presence of building material for which such a demonstration pursuant to the requirements of (b) of this subsection has been made. However, in all such cases, the information, data and analysis supporting the determination that PACM does not contain asbestos, shall be retained pursuant to WAC 296-62-07727.

(b) An employer or owner may demonstrate that PACM does not contain asbestos by the following:

(i) Having a completed inspection conducted pursuant to the requirements of AHERA (40 CFR Part 763, Subpart E) which demonstrates that the material is not ACM;

(ii) Performing tests of the material containing PACM which demonstrate that no asbestos is present in the material. Such tests shall include analysis of ~~((3-bulk samples of each homogeneous area of PACM collected in a randomly~~

~~distributed-manner))~~ bulk samples collected in the manner described in 40 CFR 763.86. The tests, evaluation and sample collection shall be conducted by an accredited inspector. Analysis of samples shall be performed by persons or laboratories with proficiency demonstrated by current successful participation in a nationally recognized testing program such as the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute for Standards and Technology (NIST) ~~((or))~~ or the Round Robin for bulk samples administered by the American Industrial Hygiene Associate (AIHA), or an equivalent nationally recognized Round Robin testing program.

(4) At the entrance to mechanical rooms/areas in which employees reasonably can be expected to enter and which contain TSI or surfacing ACM and PACM, the building/vessel and facility owner or owner's agent shall post signs which identify the material which is present, its location, and appropriate work practices which, if followed, will ensure that ACM and/or PACM will not be disturbed. The employer shall ensure, to the extent feasible, that employees who come in contact with these signs can comprehend them. Means to ensure employee comprehension may include the use of foreign languages, pictographs, graphics, and awareness training.

(5) Warning signs.

(a) Warning signs that demarcate the regulated area shall be provided and displayed at each location where a regulated area is required. In addition, warning signs shall be posted at all approaches to regulated areas and be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(b) The warning signs required by (a) of this subsection shall bear the following information:

DANGER  
ASBESTOS  
CANCER AND LUNG DISEASE HAZARD  
AUTHORIZED PERSONNEL ONLY  
RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED  
IN THIS AREA

(c) The employer shall ensure that employees working in and contiguous to regulated areas comprehend the warning signs required to be posted by (a) of this subsection. Means to ensure employee comprehension may include the use of foreign languages, pictographs, and graphics.

(6) Warning labels.

(a) Warning labels shall be affixed to all products containing asbestos including raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, and to their containers including waste containers. Where feasible, installed asbestos products shall contain a visible label.

(b) Labels shall be printed in large, bold letters on a contrasting background.

(c) The labels shall comply with the requirements of WAC 296-62-05411, and shall include the following information:

DANGER  
CONTAINS ASBESTOS FIBERS  
AVOID CREATING DUST  
CANCER AND LUNG DISEASE HAZARD  
AVOID BREATHING AIRBORNE ASBESTOS FIBERS

(7) The provisions for labels required by subsection (6)(a) of this section or for material safety data sheets required by subsection (8) of this section do not apply where:

(a) Asbestos fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of fibers of asbestos in excess of the excursion limit will be released; or

(b) Asbestos is present in a product in concentrations less than 0.1 percent by weight.

(8) Material safety data sheets. Employers who are manufacturers or importers of asbestos, or asbestos products shall comply with the requirements regarding development of material safety data sheets as specified in WAC 296-62-05413, except as provided by subsection (7) of this section.

(9) When a building/vessel owner/or employer identifies previously installed PACM and/or ACM, labels or signs shall be affixed or posted so that employees will be notified of what materials contain PACM and/or ACM. The employer shall attach such labels in areas where they will clearly be noticed by employees who are likely to be exposed, such as at the entrance to mechanical rooms/areas. Signs required by subsection (5)(a) of this section may be posted in lieu of labels so long as they contain information required for labeling. The employer shall ensure, to the extent feasible, that employees who come in contact with these signs can comprehend them. Means to ensure employee comprehension may include the use of foreign languages, pictographs, graphics, and awareness training.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07725 Medical surveillance.** (1) General.

(a) Employees covered. The employer shall institute a medical surveillance program for all employees who are or will be exposed to airborne concentrations of fibers of asbestos at or above the permissible exposure limits. Exception.

Employers in the construction or shipyard industries shall institute a medical surveillance program for all employees who for a combined total of 30 or more days per year are engaged in Class I, II, and III work, or are exposed at or above the permissible exposure limit for combined 30 days or more per year; or who are required by the ~~((section))~~ standard to wear negative pressure respirators. For the purpose of this subsection, any day in which an employee engaged in Class II or III work or a combination thereof for one hour or less (taking into account the entire time spent on the removal operation, including cleanup), and, while doing so adheres to the work practices specified in this standard, shall not ~~((count))~~ be counted.

(b) Examination by a physician.

(i) The employer shall ensure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee and at a reasonable time and place.

(ii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section, shall complete a training course in spirometry sponsored by an appropriate academic or professional institution.

(2) Preplacement examinations.

(a) Except as provided by WAC 296-62-07725 (1)(a), before an employee is assigned to an occupation exposed to airborne concentrations of asbestos, a preplacement medical examination shall be provided or made available by the employer. Examinations administered using the thirty or more days per year criteria of WAC 296-62-07725 (1)(a) shall be given within ten working days following the thirtieth day of exposure. Examinations must be given prior to assignment of employees to areas where negative-pressure respirators are worn.

(b) All examinations shall include, as a minimum, a medical and work history: A complete physical examination of all systems with special emphasis on the pulmonary, cardiovascular, and gastrointestinal systems; completion of the respiratory disease standardized questionnaire in WAC 296-62-07741, Appendix D, Part 1; a chest roentgenogram (posterior-anterior 14x17 inches); pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV<sub>1.0</sub>); and any additional tests deemed appropriate by the examining physician. Interpretation and classification of chest roentgenograms shall be conducted in accordance with WAC 296-62-07743, Appendix E.

(3) Periodic examinations.

(a) Periodic medical examinations shall be made available annually.

(b) The scope of the medical examination shall be in conformance with the protocol established in subsection (2)(b) of this section, except that the frequency of chest roentgenograms shall be conducted in accordance with Table 2 of this section, and the abbreviated standardized questionnaire contained in WAC 296-62-07741, Appendix D, Part 2, shall be administered to the employee.

TABLE 2—FREQUENCY OF CHEST ROENTGENOGRAMS

Years since first exposure	Age of employee		
	15 to 35	35+ to 45	45+
0 to 10 . . . . .	Every 5 years	Every 5 years	Every 5 years.
10+ . . . . .	Every 5 years	Every 2 years	Every 1 year.

(c) If the examining physician determines that any of the examinations should be provided more frequently than specified, the employer shall provide such examinations to affected employees at the frequencies specified by the physician.

(4) Termination of employment examinations.

(a) The employer shall provide, or make available, a termination of employment medical examination for any employee who has been exposed to airborne concentrations of fibers of asbestos at or above the permissible exposure limits.

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(b) The medical examination shall be in accordance with the requirements of the periodic examinations stipulated in subsection (3) of this section, and shall be given within thirty calendar days before or after the date of termination of employment.

(5) Recent examinations. No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with subsection (2), (3), or (4) of this section within the past one-year period.

(6) Information provided to the physician. The employer shall provide the following information to the examining physician:

(a) A copy of this standard and Appendices D, E, and H of WAC 296-62-07741, 296-62-07743, and 296-62-07749 respectively.

(b) A description of the affected employee's duties as they relate to the employee's exposure.

(c) The employee's representative exposure level or anticipated exposure level.

(d) A description of any personal protective and respiratory equipment used or to be used.

(e) Information from previous medical examinations of the affected employee that is not otherwise available to the examining physician.

(7) Physician's written opinion.

(a) The employer shall obtain a written signed opinion from the examining physician. This written opinion shall contain the results of the medical examination and shall include:

(i) The physician's opinion as to whether the employee has any detected medical conditions that would place the employee at an increased risk of material health impairment from exposure to asbestos;

(ii) Any recommended limitations on the employee or upon the use of personal protective equipment such as clothing or respirators;

(iii) A statement that the employee has been informed by the physician of the results of the medical examination and of any medical conditions resulting from asbestos exposure that require further explanation or treatment; and

(iv) A statement that the employee has been informed by the physician of the increased risk of lung cancer attributable to the combined effect of smoking and asbestos exposure.

(b) The employer shall instruct the physician not to reveal in the written opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to asbestos.

(c) The employer shall provide a copy of the physician's written opinion to the affected employee within thirty days from its receipt.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07728 Competent person.** (1) General. For all construction and shipyard work covered by this standard, the employer shall designate a competent person, having the qualifications and authorities for ensuring worker safety and health as required by chapter 296-155 WAC.

(2) Required inspections by the competent person. WAC 296-155-110(9) which requires health and safety prevention programs to provide for frequent and regular inspections on the job sites, materials, and equipment to be made by the competent person, is incorporated.

(3) Additional inspections. In addition, the competent person shall make frequent and regular inspections of the job sites in order to perform the duties set out below in this section. For Class I jobs, on-site inspections shall be made at least once during each work shift, and at any time at employee request. For Class II and III jobs, on-site inspections shall be made at intervals sufficient to assess whether conditions have changed, and at any reasonable time at employee request.

~~((a))~~ (4) On all worksites where employees are engaged in Class I or II asbestos work, the competent person designated in accordance with WAC 296-62-07712 shall perform or supervise the following duties, as applicable:

~~((i))~~ (a) Set up the regulated area, enclosure, or other containment;

~~((ii))~~ (b) Ensure (by on-site inspection) the integrity of the enclosure or containment;

~~((iii))~~ (c) Set up procedures to control entry and exit from the enclosure and/or area;

~~((iv))~~ (d) Supervise all employee exposure monitoring required by this section and ensure that it is conducted as required by WAC 296-62-07709;

~~((v))~~ (e) Ensure that employees working within the enclosure and/or using glovebags wear protective clothing and respirators as required by WAC 296-62-07715 and 296-62-07717;

~~((vi))~~ (f) Ensure through on-site supervision, that employees set up and remove engineering controls, use work practices and personal protective equipment in compliance with all requirements;

~~((vii))~~ (g) Ensure that employees use the hygiene facilities and observe the decontamination procedures specified in WAC 296-62-07719;

~~((viii))~~ (h) Ensure that through on-site inspection engineering controls are functioning properly and employees are using proper work practices; and

~~((ix))~~ (i) Ensure that notification requirements in WAC 296-62-07721 are met.

~~((4))~~ (5) Training for competent person.

(a) For Class I and II asbestos work the competent person shall be trained in all aspects of asbestos removal and handling, including: Abatement, installation, removal and handling, the contents of this standard, the identification of asbestos, removal procedures where appropriate, and other practices for reducing the hazard. Such training shall be the certified asbestos supervisor training specified in WAC 296-65-003, 296-65-012, and 296-65-030.

(b) For Class III and IV asbestos work:

(i) The competent person shall be certified as an asbestos supervisor as prescribed in WAC 296-65-012 and 296-65-030 for Class III and IV work involving 3 square feet or 3 linear feet or more of asbestos containing material.

(ii) For Class III and IV asbestos work involving less than 3 square feet or 3 linear feet of asbestos containing material, and asbestos work exempted from certification requirements in chapter 296-65 WAC, the competent person

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shall be trained in aspects of asbestos handling appropriate for the nature of the work, to include procedures for setting up glove bags and mini-enclosures, practices for reducing asbestos exposures, use of wet methods, the contents of this standard, and the identification of asbestos. Such training shall include successful completion of a course equivalent in curriculum and training method to the 16-hour Operations and Maintenance course developed by EPA for maintenance and custodial workers (see ~~((b)(i) of this subsection))~~ 40 CFR 763.92 (a)(2) or its equivalent in stringency, content and length.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-62-07761 Nonasbestiform tremolite, anthophyllite, and actinolite.

**AMENDATORY SECTION** (Amending Order 89-10, filed 10/10/89, effective 11/24/89)

**WAC 296-65-001 Purpose and scope.** This standard regulates asbestos removal and encapsulation, requires contractor certification, specifies minimum training for supervisors and workers on asbestos projects, requires notification of asbestos projects, and establishes a training course approval program. This standard applies to the removal or encapsulation of any ~~((asbestos containing material with the exception of those))~~ materials containing ~~((less))~~ more than one percent asbestos ((by volume)).

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-030 Methods of compliance.** (1) Before submitting a bid or working on an asbestos abatement project, any person or individual shall obtain an asbestos contractor certificate as provided in WAC 296-65-017 and shall have in its employ at least one certified asbestos supervisor responsible for supervising all asbestos projects undertaken by the contractor.

(2) A certified asbestos supervisor will not be required on asbestos projects involving less than three square feet or three feet of asbestos-containing material unless the surface area of the pipe is greater than three square feet. A certified asbestos supervisor is required for all Class I and II asbestos work in accordance with WAC 296-62-07728 (4)(a).

(3) No employee or other individual is eligible to do work or supervise an asbestos project without being issued a certificate by the department.

(a) Employees performing Class I or Class II asbestos work shall be certified asbestos workers except when excluded in WAC 296-62-07722 (3)(b).

(b) Employees performing Class III or Class IV asbestos work as an asbestos project shall be certified asbestos workers.

**Note:** Exceptions to certification of asbestos work not considered to be an asbestos project are found in WAC 296-65-003 in the definition of "asbestos project," and in WAC 296-62-07722. If intact asbestos-containing materials or PACM are removed according to the required work practices, controls, respiratory

protection, training and related provisions of WAC 296-62-077, certification is not required as specified in the exceptions. If asbestos-containing material or PACM is not intact, or becomes nonintact during removal, the asbestos work is considered as an asbestos project and the certification requirements of chapter 296-65 WAC apply.

(4) No person may assign any employee, contract with, or permit any individual, to remove or encapsulate asbestos in any facility without the project being performed by a certified asbestos worker and under the direct, on-site supervision of a certified asbestos supervisor.

(5) In cases in which an employer conducts an asbestos abatement project in its own facility by its own employees, supervision can be performed in the regular course of a certified asbestos supervisor's duties. Asbestos workers must have access to certified asbestos supervisors throughout the duration of the project.

(6) Any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section shall be halted immediately and cannot be resumed before meeting such requirements.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-99-010 ~~((Scope.))~~ What safety hazards does this chapter require the employer to control?** ~~((This section contains requirements for the control of grain dust fires and explosions, and certain other safety hazards associated with grain handling facilities. It applies in addition to all other relevant provisions of chapters 296-24 and 296-62 WAC (or chapter 296-56 WAC at marine terminals).))~~ This chapter directs the employer to control dust fires, explosions and other safety hazards in grain handling facilities. Provisions from the following chapters also apply:

- Chapter 296-24;
- Chapter 296-62; and
- Chapter 296-56 WAC (the dock areas at marine terminals).

**AMENDATORY SECTION** (Amending Order 89-20, filed 1/11/90, effective 2/26/90)

**WAC 296-99-015 ~~((Application.))~~ What grain-handling operations does this chapter cover?** ~~((1) WAC 296-99-010 through 296-99-070 apply to grain elevators, feed mills, flour mills, rice mills, dust pelletizing plants, dry corn mills, soybean flaking operations, and the dry grinding operations of soycake.~~

~~((2) WAC 296-99-075, 296-99-080, and 296-99-085 apply only to grain elevators.~~

~~((3) Chapter 296-99 WAC shall not apply to alfalfa storage or processing operations providing that the processing operations do not utilize grain products, such as in feed mill operations.))~~ (1) WAC 296-99-010 through 296-99-070 apply to:

- Dry grinding operations of soycake;
- Dry corn mills;
- Dust pelletizing plants;
- Feed lots;

- Feed mills;
- Flour mills;
- Flat storage structures;
- Grain elevators;
- On-farm storage;
- Rice mills;
- Seed plants; and
- Soybean flaking operations.

(2) WAC 296-99-075, 296-99-080, and 296-99-085 apply only to grain elevators.

(3) Chapter 296-99 WAC does not apply to alfalfa storage or processing operations if they do not use grain products.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-99-020 ((Definitions)) What definitions apply to this chapter?** ((1) "Choked leg" means a condition of material buildup in the bucket elevator that results in the stoppage of material flow and bucket movement. A bucket elevator is not considered choked that has the up leg partially or fully loaded and has the boot and discharge cleared allowing bucket movement.

(2) "Fugitive grain dust" means combustible dust particles, emitted from the stock handling system, of such size as will pass through a U.S. Standard 40 mesh sieve (425 microns or less).

(3) "Grain elevator" means a facility engaged in the receipt, handling, storage, and shipment of bulk raw agricultural commodities such as corn, wheat, oats, barley, sunflower seeds, and soybeans.

(4) "Hot work" means work involving electric or gas welding, cutting, brazing, or similar flame producing operations.

(5) "Inside bucket elevator" means a bucket elevator that has the boot and more than twenty percent of the total leg height (above grade or ground level) inside the grain elevator structure. Bucket elevators with leg casings that are inside (and pass through the roofs) of rail or truck dump sheds with the remainder of the leg outside of the grain elevator structure, are not considered inside bucket elevators.

(6) "Jogging" means repeated starting and stopping of drive motors in an attempt to clear choked legs.

(7) "Lagging" means a covering on drive pulleys used to increase the coefficient of friction between the pulley and the belt.

(8) "Permit" means the written certification by the employer authorizing employees to perform identified work operations subject to specified precautions.) "Choked leg" means excess material buildup that stops the movement of grain and of the bucket elevator. A bucket elevator is not considered choked if it moves and the boot and discharge are clear.

"Flat storage structure" means a grain storage structure that:

- Can not empty by gravity alone;
- Can be entered through an opening at ground level; and
- Must be entered to remove leftover grain.

"Fugitive grain dust" means combustible grain dust particles, accumulated inside storage structures, that are small enough to pass through a U.S. Standard 40 mesh sieve (425 microns or less).

"Grain" means raw and processed grain of cereal grass seeds and grain products handled in facilities within the scope of WAC 296-99-015(1).

"Grain elevator" means a facility in which bulk raw grains are stored by means of elevating machinery for later shipment.

"Hot work" means work that involves electric or gas welding, cutting, brazing or similar heat-producing tasks that could be a source of ignition.

"Inside bucket elevator" means a bucket elevator with the boot and more than twenty percent of the total leg height (above grade or ground level) inside a grain elevator structure.

"Lagging" means a covering on drive pulleys used to increase the driving friction between the pulley and the belt.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-99-025 ((Emergency action plan)) What are the requirements for an emergency action plan?** ((The employer shall develop and implement an emergency action plan meeting the requirements contained in WAC 296-24-567.)) The employer must develop and implement an emergency action plan that meets the requirements of WAC 296-24-567.

**AMENDATORY SECTION** (Amending Order 88-25, filed 11/14/88)

**WAC 296-99-030 ((Training)) What training must an employer provide for employees?** ((1) The employer shall provide training to employees at least annually and when changes in job assignment will expose them to new hazards. Current employees, and new employees prior to starting work, shall be trained in at least the following:

(a) General safety precautions associated with the facility, including recognition and preventive measures for the hazards related to dust accumulations and common ignition sources such as smoking; and

(b) Specific procedures and safety practices applicable to their job tasks including but not limited to, cleaning procedures for grinding equipment, clearing procedures for choked legs, housekeeping procedures, hot work procedures, preventive maintenance procedures, and lock-out/tag-out procedures.

(2) Employees assigned special tasks, such as bin entry and handling of flammable or toxic substances, shall be provided training to perform these tasks safely.) (1) The employer must train employees:

(a) Annually; and

(b) Whenever a new job assignment exposes an employee to a new hazard.

(2) The employer must ensure that employees are trained in the following:

(a) General safety precautions against fires and explosions, including how to recognize and prevent the hazards of excess dust accumulation and ignition sources.

(b) Specific procedures and safety practices for job tasks including, but not limited to:

- Cleaning grinding equipment;
- Clearing choked legs;
- Housekeeping;
- Hot work; and
- Preventive maintenance.

(3) The employer must provide additional training for employees who are assigned special tasks, including but not limited to:

(a) Procedures for grain storage entry according to WAC 296-62-145, confined space entry, and how to:

- Control hazardous energy (lockout/tagout) according to WAC 296-24-110;
- Avoid getting buried by moving grain (engulfment);
- Avoid falling from heights; and
- Prevent mechanical hazards.

(b) How to handle flammable or toxic substances.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-035 ((Hot work permit.)) When must an employer issue a hot work permit? (((1) The employer shall issue a permit for all hot work, with the following exceptions:

(a) Where the employer or the employer's representative (who would otherwise authorize the permit) is present while the hot work is being performed;

(b) In welding shops authorized by the employer;

(c) In hot work areas authorized by the employer which are located outside of the grain handling structure.

(2) The permit shall certify that the requirements contained in WAC 296-24-695 have been implemented prior to beginning the hot work operations. The permit shall be kept on file until completion of the hot work operations.))

(1) Before allowing an employee to start any hot work, the employer must:

(a) Issue to the employee a permit that states that all safety precautions required by WAC 296-24-695 are in place; and

(b) Keep the permit on file until the hot work is complete.

(2) The employer may allow an employee to perform hot work without a permit if:

(a) The employer's representative personally monitors the hot work to prevent employee exposure during the entire operation; or

(b) The hot work is done in welding shops authorized by the employer; or

(c) The hot work is done in hot work areas authorized by the employer which are located outside of the grain handling structure.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-040 ((Entry into bins, silos, and tanks.)) What practices must an employer follow for entry into grain storage structures? ((This paragraph applies to employees entering bins, silos, or tanks. It does

~~not apply to employees entering flat storage buildings or tanks where the diameter of such structures is greater than the height, unless entry is made from the top of the structure.~~

~~The following actions shall be taken before employees enter bins, silos, or tanks:~~

~~(1) The employer shall issue a permit for entering bins, silos, or tanks unless the employer or the employer's representative (who would otherwise authorize the permit) is present during the entire operation. The permit shall certify that the precautions contained in this section have been implemented prior to employees entering bins, silos, or tanks. The permit shall be kept on file until completion of the entry operations.~~

~~(2) All mechanical, electrical, hydraulic, and pneumatic equipment which present a danger to employees inside bins, silos, or tanks shall be disconnected, locked out and tagged, blocked off, or prevented from operating by other means or methods.~~

~~(3) The atmosphere within a bin, silo, or tank shall be tested for the presence of combustible gases, vapors, and toxic agents when the employer has reason to believe they may be present. Additionally, the atmosphere within a bin, silo, or tank shall be tested for oxygen content unless there is continuous natural air movement or continuous forced air ventilation before and during the period employees are inside. If the oxygen level is less than nineteen and one half percent, or if combustible gas or vapor is detected in excess of ten percent of the lower flammable limit, or if toxic agents are present in excess of the ceiling values listed in WAC 296-62-07515, or if toxic agents are present in concentrations that will cause health effects which prevent employees from effecting self rescue or communication to obtain assistance, the following provisions apply:~~

~~(a) Ventilation shall be provided until the unsafe condition or conditions are eliminated, and the ventilation shall be continued as long as there is a possibility of recurrence of the unsafe condition while the bin, silo, or tank is occupied by employees.~~

~~(b) If toxicity or oxygen deficiency cannot be eliminated by ventilation, employees entering the bin, silo, or tank shall wear an appropriate respirator. Respirator use shall be in accordance with the requirements of WAC 296-62-071 through 296-62-07121.~~

~~(4) When entering bins, silos, or tanks from the top, employees shall wear a body harness with lifeline, or use a boatswain's chair that meets the requirements of Part J-1 of chapter 296-24 WAC.~~

~~(5) An observer, equipped to provide assistance, shall be stationed outside the bin, silo, or tank being entered by an employee. Communications (visual, voice, or signal line) shall be maintained between the observer and employee entering the bin, silo, or tank.~~

~~(6) The employer shall provide equipment for rescue operations which is specifically suited for the bin, silo, or tank being entered.~~

~~(7) The employee acting as observer shall be trained in rescue procedures, including notification methods for obtaining additional assistance.~~

~~(8) Employees shall not enter bins, silos, or tanks underneath a bridging condition, or where a buildup of grain products on the sides could fall and bury them.)) This~~

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section applies to employee entry into all grain storage structures.

(1) The employer must ensure that the practice of walking down grain is prohibited. "Walking down grain" means an employee walks on grain to make it flow within or out from a grain storage structure, or an employee is on moving grain.

(2) The employer must ensure that during the entry and occupation of a storage structure the employee uses:

- A body harness with a lifeline; or
- A boatswain's chair that meets the requirements of Part J-1 of chapter 296-24 WAC whenever:

(a) The employee is exposed to a fall hazard such as when entering from the top or above the level of the stored grain; or

(b) The employee is exposed to an engulfment hazard such as when entering at the level of the stored grain, or while walking or standing on the grain. The lifeline must be rigged so that its position and length will prevent the employee from sinking below waist level.

(3) The employer must ensure that during the occupation of storage structures, including walking or standing on grain, employees are protected from hazards related to:

- Mechanical;
- Electrical;
- Hydraulic; and
- Pneumatic.

Equipment by using safeguards, lockout-tagout, or other equally effective means. All provisions for the control of hazardous energy (lockout/tagout) from WAC 296-24-110 apply to this chapter.

(4) The employer must ensure that employees are prohibited from entering any storage structure where a build-up of grain overhead (bridging) or on the sides could fall and bury them.

(5) The employer must ensure, as minimum precautions, that employee entry and occupation of all grain storage structures including flat storage structures is done according to all applicable requirements of WAC 296-62-145, confined space, when the storage structure:

- Has limited or restricted means of entry and exit; and
- Is not designed for continuous employee occupancy.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-045 ((Contractors-)) What information must an employer provide to contractors? ((1) The employer shall inform contractors performing work at the grain handling facility of known potential fire and explosion hazards related to the contractor's work and work area. The employer shall also inform contractors of the applicable safety rules of the facility.

(2) The employer shall explain the applicable provisions of the emergency action plan to contractors-)) (1) The employer must inform contractors working at the grain handling facility of:

- (a) General safety rules; and

(b) Specific fire and explosion hazards related to the contractor's work and work area.

(2) The employer must explain the emergency action plan to each contractor.

AMENDATORY SECTION (Amending Order 91-01, filed 5/20/91, effective 6/20/91)

WAC 296-99-050 ((Housekeeping-)) What elements must an employer include in the housekeeping program?

((1) The employer shall develop and implement a written housekeeping program that establishes the frequency and method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed surfaces.

(2) In addition, the housekeeping program for grain elevators shall address fugitive grain dust accumulations at priority housekeeping areas.

(a) Priority housekeeping areas shall include at least the following:

(i) Floor areas within thirty five feet (10.7 m) of inside bucket elevators;

(ii) Floors of enclosed areas containing grinding equipment;

(iii) Floors of enclosed areas containing grain dryers located inside the facility.

(b) The employer shall immediately remove any fugitive grain dust accumulations whenever they exceed one eighth inch (.32 cm) at priority housekeeping areas, pursuant to the housekeeping program, or shall demonstrate and assure, through the development and implementation of the housekeeping program, that equivalent protection is provided.

(3) The use of compressed air to blow dust from ledges, walls, and other areas shall only be permitted when all machinery that presents an ignition source in the area is shut down, and all other known potential ignition sources in the area are removed or controlled.

(4) Grain and product spills shall not be considered fugitive grain dust accumulations. However, the housekeeping program shall address the procedures for removing such spills from the work area-)) (1) The employer must develop and enforce a written housekeeping program that:

(a) Establishes frequency and methods for reducing and cleaning up hazardous accumulations of fugitive grain dust;

(b) Identifies priority areas for clean up of hazardous accumulations of fugitive grain dust, including floor areas:

• Within thirty-five feet (10.7 m) of inside bucket elevators;

• Of enclosed grinding equipment; and

• Of enclosed grain dryers located inside the facility; and

(c) Requires that fugitive grain dust is cleaned up immediately whenever accumulations exceed one-eighth inch (.32 cm) at priority housekeeping areas, or provide protection against fire and explosion that is equal to the required clean up.

(2) The employer must prohibit the use of compressed air to blow dust from ledges, walls, and other areas unless all machinery that provides an ignition source in the area is shut down, and all other known potential ignition sources in the area are removed or controlled.

(3) The employer must also ensure that the housekeeping program addresses procedures for removing grain and product spills from work areas. Spills are not considered fugitive grain dust accumulations.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-055 ((Grate openings.)) What is the maximum allowable grate opening size? ((1) Receiving-pit feed openings, such as truck or railcar receiving pits, shall be covered by grates.

(2) The width of openings in the grates shall be a maximum of two and one-half inches (6.35 cm.)) The employer must ensure that receiving-pit feed openings, such as truck or railcar receiving-pits, are covered by grates with maximum openings of two and one-half inches (6.35 cm).

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-060 ((Filter collectors.)) How must filter collectors be installed? ((1) Not later than March 30, 1989, all fabric dust filter collectors which are a part of a pneumatic dust collection system shall be equipped with a monitoring device that will indicate a pressure drop across the surface of the filter.

(2) Filter collectors installed after March 30, 1988, shall be:

- (a) Located outside the facility; or
- (b) Located in an area inside the facility protected by an explosion suppression system; or
- (c) Located in an area inside the facility that is separated from other areas of the facility by construction having at least a one-hour fire-resistance rating, and which is adjacent to an exterior wall and vented to the outside. The vent and ductwork shall be designed to resist rupture due to deflagration.)) (1) The employer must ensure that, on a pneumatic dust collection system, each fabric dust filter collector has a monitoring device that will show a pressure drop across the surface of its filter.

(2) The employer must ensure that each filter collector installed after March 30, 1988, is:

- (a) Located outside the facility; or
- (b) When located inside the facility, protected by an explosion suppression system; or
- (c) Isolated by a structure with at least a one-hour fire-resistance rating:
  - Next to an exterior wall;
  - Vented to the outside; and
  - The vent and ductwork must resist rupture from intense heat.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-065 ((Preventive maintenance.)) What preventive maintenance program must an employer implement? ((1) The employer shall implement preventive maintenance procedures consisting of:

(a) Regularly scheduled inspections of at least the mechanical and safety control equipment associated with

dryers, grain stream processing equipment, dust collection equipment including filter collectors, and bucket elevators;

(b) Lubrication and other appropriate maintenance in accordance with manufacturers' recommendations, or as determined necessary by prior operating records.

(2) The employer shall promptly correct dust collection systems which are malfunctioning or which are operating below designed efficiency. Additionally, the employer shall promptly correct, or remove from service, overheated bearings and slipping or misaligned belts associated with inside bucket elevators.

(3) A certification record shall be maintained of each inspection, performed in accordance with this section, containing the date of the inspection, the name of the person who performed the inspection and the serial number, or other identifier, of the equipment specified in subsection (1)(a) of this section that was inspected.

(4) The employer shall implement procedures for the use of tags and locks which will prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted, which could result in employee injury. Such locks and tags shall be removed in accordance with established procedures only by the employee installing them or, if unavailable, by his or her supervisor.)) (1) The employer must implement a written program that covers the requirements of WAC 296-24-110, The control of hazardous energy (lockout/tagout).

(2) The employer must implement preventive maintenance procedures that include the following:

(a) Conducting regularly scheduled inspections for specified machinery.

(b) Preparing written inspection reports kept on file that include:

- The date of each inspection;
- The name of the inspector; and
- The serial number, or other identification of the machinery as described next in (c) of this subsection.

(c) Conducting regularly scheduled inspections and completing immediate repairs of the mechanical equipment and safety controls of the following machinery:

- Grain dryers;
- Grain stream processing equipment;
- Dust collection systems including their filter collectors that malfunction or operate below designed efficiency;
- Overheated bearings; and
- Slipping or misaligned belt drives for inside bucket elevators.

When immediate repairs are not feasible, then the affected machine must be taken out of service.

(d) Performing lubrication and other maintenance according to manufacturers' recommendations or more often when needed, such as when operating records indicate that a more stringent schedule is necessary.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-070 (~~Grain stream processing equipment~~.) How must grain stream processing equipment be equipped? (~~The employer shall equip grain stream processing equipment (such as hammer mills, grinders, and pulverizers) with an effective means of removing ferrous material from the incoming grain stream.~~) The employer must ensure that the following grain stream processing equipment has an effective means of removing ferrous material from the incoming grain:

- Hammer mills;
- Grinders; and
- Pulverizers.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-075 (~~Emergency escape~~.) How many means of emergency escape must an employer provide? (~~(1) The employer shall provide at least two means of emergency escape from galleries (bin decks).~~)

(2) ~~The employer shall provide at least one means of emergency escape in tunnels of existing grain elevators. Tunnels in grain elevators constructed after the effective date of this standard shall be provided with at least two means of emergency escape.~~) The employer must provide the following number of emergency escape means:

<u>Structure</u>	<u>Number of escape means</u>
<u>Galleries (bin decks)</u>	<u>Two</u>
<u>Tunnels of grain elevators constructed after November 14, 1988</u>	<u>Two</u>
<u>Tunnels of grain elevators constructed on or before November 14, 1988</u>	<u>One</u>

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-080 (~~Continuous flow bulk raw grain dryers~~.) How must continuous-flow bulk raw grain dryers be equipped and installed? (~~(1) Not later than April 1, 1991, all direct heat grain dryers shall be equipped with automatic controls that:~~)

- (a) ~~Will shut off the fuel supply in case of power or flame failure or interruption of air movement through the exhaust fan; and~~
- (b) ~~Will stop the grain from being fed into the dryer if excessive temperature occurs in the exhaust of the drying section.~~
- (2) ~~Direct heat grain dryers installed after March 30, 1988, shall be:~~
  - (a) ~~Located outside the grain elevator; or~~
  - (b) ~~Located in an area inside the grain elevator protected by a fire or explosion suppression system; or~~
  - (c) ~~Located in an area inside the grain elevator which is separated from other areas of the facility by construction~~

~~having at least a one hour fire resistance rating.)~~ (1) The employer must ensure that all direct-heat grain dryers have automatic controls that:

- (a) Shut off the fuel supply in case of power, flame, or ventilation airflow shut-off; and
- (b) Stop the grain flow into the dryer if the dryer exhaust gets too hot.
- (2) The employer must ensure that each direct-heat grain dryer installed after March 30, 1988, is:
  - (a) Located outside the grain elevator; or
  - (b) When located inside the grain elevator, protected by a fire or explosion suppression system; or
  - (c) Isolated by a structure with at least a one hour fire-resistance rating.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-085 (~~Inside bucket elevators~~.) What special requirements apply to inside bucket elevators? (~~(1) Bucket elevators shall not be jogged to free a choked leg.~~)

- (2) ~~All belts and lagging purchased after March 30, 1988, shall be conductive. Such belts shall have a surface electrical resistance not to exceed 300 megohms.~~
- (3) ~~Not later than April 1, 1991, all bucket elevators shall be equipped with a means of access to the head pulley section to allow inspection of the head pulley, lagging, belt, and discharge throat of the elevator head. The boot section shall also be provided with a means of access for clean-out of the boot and for inspection of the boot, pulley, and belt.~~
- (4) ~~Not later than April 1, 1991, the employer shall:~~
  - (a) ~~Mount bearings externally to the leg casing; or~~
  - (b) ~~Provide vibration monitoring, temperature monitoring, or other means to monitor the condition of those bearings mounted inside or partially inside the leg casing.~~
- (5) ~~Not later than April 1, 1991, the employer shall equip bucket elevators with a motion detection device which will shut down the bucket elevator when the belt speed is reduced by no more than twenty percent of the normal operating speed.~~
- (6) ~~Not later than April 1, 1991, the employer shall:~~
  - (a) ~~Equip bucket elevators with a belt alignment monitoring device which will initiate an alarm to employees when the belt is not tracking properly; or~~
  - (b) ~~Provide a means to keep the belt tracking properly, such as a system that provides constant alignment adjustment of belts.~~
- (7) ~~Subsections (5) and (6) of this section do not apply to grain elevators having a permanent storage capacity of less than one million bushels, provided that daily visual inspection is made of bucket movement and tracking of the belt.~~
- (8) ~~Subsections (4), (5), and (6) of this section do not apply to the following:~~
  - (a) ~~Bucket elevators which are equipped with an operational fire and explosion suppression system capable of protecting at least the head and boot section of the bucket elevator; or~~
  - (b) ~~Bucket elevators which are equipped with pneumatic or other dust control systems or methods that keep the dust~~

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~~concentration inside the bucket elevator at least twenty-five percent below the lower explosive limit at all times during operations.~~

~~Note: The following appendices to this chapter serve as nonmandatory guidelines to assist employers and employees in complying with the requirements of this section, as well as to provide other helpful information.~~

~~No additional burdens are imposed through these appendices.)~~ (1) The employer must prohibit jogging of a bucket elevator to free a choked leg.

"Jogging" means to start and stop drive motors repeatedly over short intervals.

(2) The employer must ensure that all belts and lagging purchased after March 30, 1988, are conductive and have a maximum surface electrical resistance of 300 megohms.

(3) The employer must ensure that all bucket elevators have safe access to the head pulley section for inspection of the head pulley, lagging, belt, and discharge throat. The boot section must also have safe access for its clean-out and inspection of the pulley and belt.

(4) The employer must:

(a) Mount bearings externally to the leg casing; or

(b) Have vibration and temperature monitoring; or

(c) Have other means to monitor the condition of bearings mounted inside or partially inside the leg casing.

(5) The employer must ensure that bucket elevators have a motion detection device that will stop the elevator if belt speed is reduced to less than eighty percent of normal operating speed.

(6) The employer must:

(a) Ensure that bucket elevators have a belt alignment monitoring device that will initiate an alarm to employees when the belt is not tracking properly; or

(b) Use a system to keep the belt tracking properly.

(7) Subsections (5) and (6) of this section do not apply to grain elevators with a permanent storage capacity of less than one million bushels, if daily visual inspection is made of bucket movement and belt tracking.

(8) Subsections (4), (5), and (6) of this section do not apply to the following:

(a) Bucket elevators with an operational fire and explosion suppression system capable of protecting at least the head and boot section of the bucket elevator; or

(b) Bucket elevators with pneumatic or other dust control systems or methods that keep the dust concentration inside the bucket elevator at least twenty-five percent below the lower explosive limit at all times during operations.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-090 ((Appendix A, grain handling facilities.)) Reserved.

~~((Note: Examples presented in this appendix may not be the only means of achieving the performance goals in the standard.~~

~~(1) Scope and application. The provisions of this standard apply in addition to any other applicable requirements of chapters 296-24 and 296-62 WAC (or chapter 296-56 WAC at marine terminals). The standard contains requirements for new and existing grain handling facilities. The standard does not apply to seed plants which handle and~~

~~prepare seeds for planting of future crops, nor to on farm storage or feed lots.~~

~~(2) Emergency action plan.~~

~~(a) The standard requires the employer to develop and implement an emergency action plan. The emergency action plan WAC 296-24-567 covers those designated actions employers and employees are to take to ensure employee safety from fire and other emergencies. The plan specifies certain minimum elements which are to be addressed. These elements include the establishment of an employee alarm system, the development of evacuation procedures, and training employees in those actions they are to take during an emergency.~~

~~(b) The standard does not specify a particular method for notifying employees of an emergency. Public announcement systems, air horns, steam whistles, a standard fire alarm system, or other types of employee alarm may be used. However, employers should be aware that employees in a grain facility may have difficulty hearing an emergency alarm, or distinguishing an emergency alarm from other audible signals at the facility, or both. Therefore, it is important that the type of employee alarm used be distinguishable and distinct.~~

~~(c) The use of floor plans or workplace maps which clearly show the emergency escape routes should be included in the emergency action plan; color coding will aid employees in determining their route assignments. The employer should designate a safe area, outside the facility, where employees can congregate after evacuation, and implement procedures to account for all employees after emergency evacuation has been completed.~~

~~(d) It is also recommended that employers seek the assistance of the local fire department for the purpose of preplanning for emergencies. Preplanning is encouraged to facilitate coordination and cooperation between facility personnel and those who may be called upon for assistance during an emergency. It is important for emergency service units to be aware of the usual work locations of employees at the facility.~~

~~(3) Training.~~

~~(a) It is important that employees be trained in the recognition and prevention of hazards associated with grain facilities, especially those hazards associated with their own work tasks. Employees should understand the factors which are necessary to produce a fire or explosion, i.e., fuel (such as grain dust), oxygen, ignition source, and (in the case of explosions) confinement. Employees should be made aware that any efforts they make to keep these factors from occurring simultaneously will be an important step in reducing the potential for fires and explosions.~~

~~(b) The standard provides flexibility for the employer to design a training program which fulfills the needs of a facility. The type, amount, and frequency of training will need to reflect the tasks that employees are expected to perform. Although training is to be provided to employees at least annually, it is recommended that safety meetings or discussions and drills be conducted at more frequent intervals.~~

~~(c) The training program should include those topics applicable to the particular facility, as well as topics such as: Hot work procedures; lock-out/tag-out procedures; bin~~

entry procedures; bin cleaning procedures; grain dust explosions; fire prevention; procedures for handling "hot grain"; housekeeping procedures, including methods and frequency of dust removal; pesticide and fumigant usage; proper use and maintenance of personal protective equipment; and preventive maintenance. The types of work clothing should also be considered in the program at least to caution against using polyester clothing that easily melts and increases the severity of burns, as compared to wool or fire retardant cotton.

(d) In implementing the training program, it is recommended that the employer utilize films, slide tape presentations, pamphlets, and other information which can be obtained from such sources as the Grain Elevator and Processing Society, the Cooperative Extension Service of the United States Department of Agriculture, Kansas State University's Extension Grain Science and Industry, and other state agriculture schools, industry associations, union organizations, and insurance groups.

(4) Hot work permit.

(a) The implementation of a permit system for hot work is intended to assure that employers maintain control over operations involving hot work and to assure that employees are aware of and utilize appropriate safeguards when conducting these activities.

(b) Precautions for hot work operations are specified in WAC 296-24-695, and include such safeguards as relocating the hot work operation to a safe location if possible, relocating or covering combustible material in the vicinity, providing fire extinguishers, and provisions for establishing a fire watch. Permits are not required for hot work operations conducted in the presence of the employer or the employer's authorized representative who would otherwise issue the permit, or in an employer authorized welding shop or when work is conducted outside and away from the facility.

(c) It should be noted that the permit is not a record, but is an authorization of the employer certifying that certain safety precautions have been implemented prior to the beginning of work operations.

(5) Entry into bins, silos, and tanks.

(a) In order to assure that employers maintain control over employee entry into bins, silos, and tanks, WISHA is requiring that the employer issue a permit for entry into bins, silos, and tanks unless the employer (or the employer's representative who would otherwise authorize the permit) is present at the entry and during the entire operation.

(b) Employees should have a thorough understanding of the hazards associated with entry into bins, silos, and tanks. Employees are not to be permitted to enter these spaces from the bottom when grain or other agricultural products are hung up or sticking to the sides which might fall and injure or kill an employee. Employees should be made aware that the atmosphere in bins, silos, and tanks can be oxygen deficient or toxic. Employees should be trained in the proper methods of testing the atmosphere, as well as in the appropriate procedures to be taken if the atmosphere is found to be oxygen deficient or toxic. When a fumigant has been recently applied in these areas and entry must be made, aeration fans should be running continuously to assure a safe atmosphere for those inside. Periodic monitoring of toxic levels should be done by direct reading instruments to

measure the levels, and, if there is an increase in these readings, appropriate actions should be promptly taken.

(c) Employees have been buried and suffocated in grain or other agricultural products because they sank into the material. Therefore, it is suggested that employees not be permitted to walk or stand on the grain or other grain product where the depth is greater than waist high. In this regard, employees must use a full body harness or boat-swain's chair with a lifeline when entering from the top. A winch system with mechanical advantage (either powered or manual) would allow better control of the employee than just using a hand held hoist line, and such a system would allow the observer to remove the employee easily without having to enter the space.

(d) It is important that employees be trained in the proper selection and use of any personal protective equipment which is to be worn. Equally important is the training of employees in the planned emergency rescue procedures. Employers should carefully read WAC 296-62-07115 and assure that their procedures follow these requirements. The employee acting as observer is to be equipped to provide assistance and is to know procedures for obtaining additional assistance. The observer should not enter a space until adequate assistance is available. It is recommended that an employee trained in CPR be readily available to provide assistance to those employees entering bins, silos, or tanks.

(6) Contractors.

(a) These provisions of the standard are intended to ensure that outside contractors are cognizant of the hazards associated with grain handling facilities, particularly in relation to the work they are to perform for the employer. Also, in the event of an emergency, contractors should be able to take appropriate action as a part of the overall facility emergency action plan. Contractors should also be aware of the employer's permit systems. Contractors should develop specified procedures for performing hot work and for entry into bins, silos, and tanks and these activities should be coordinated with the employer. Contractors are responsible for informing their own employees.

(b) This coordination will help to ensure that employers know what work is being performed at the facility by contractors; where it is being performed; and, that it is being performed in a manner that will not endanger employees.

(7) Housekeeping.

(a) The housekeeping program is to be designed to keep dust accumulations and emissions under control inside grain facilities. The housekeeping program, which is to be written, is to specify the frequency and method(s) used to best reduce dust accumulations.

(b) Ship, barge, and rail loadout and receiving areas which are located outside the facility need not be addressed in the housekeeping program. Additionally, truck dumps which are open on two or more sides need not be addressed by the housekeeping program. Other truck dumps should be addressed in the housekeeping program to provide for regular cleaning during periods of receiving grain or agricultural products. The housekeeping program should provide coverage for all workspaces in the facility and include walls, beams, etc., especially in relation to the extent that dust could accumulate.

(i) Dust accumulations.

(A) Almost all facilities will require some level of manual housekeeping. Manual housekeeping methods, such as vacuuming or sweeping with soft bristle brooms, should be used which will minimize the possibility of layered dust being suspended in the air when it is being removed.

(B) The housekeeping program should include a contingency plan to respond to situations where dust accumulates rapidly due to a failure of a dust enclosure hood, an unexpected breakdown of the dust control system, a dust-tight connection inadvertently knocked open, etc.

(C) The housekeeping program should also specify the manner of handling spills. Grain spills are not considered to be dust accumulations.

(D) A fully enclosed horizontal belt conveying system where the return belt is inside the enclosure should have inspection access such as sliding panels or doors to permit checking of equipment, checking for dust accumulations and facilitate cleaning if needed.

(ii) Dust emissions:

(A) Employers should analyze the entire stock handling system to determine the location of dust emissions and effective methods to control or to eliminate them. The employer should make sure that holes in spouting, casings of bucket elevators, pneumatic conveying pipes, screw augers, or drag conveyor casings, are patched or otherwise properly repaired to prevent leakage. Minimizing free falls of grain or grain products by using choke feeding techniques, and utilization of dust-tight enclosures at transfer points, can be effective in reducing dust emissions.

(B) Each housekeeping program should specify the schedules and control measures which will be used to control dust emitted from the stock handling system. The housekeeping program should address the schedules to be used for cleaning dust accumulations from motors, critical bearings and other potential ignition sources in the working areas. Also, the areas around bucket elevator legs, milling machinery and similar equipment should be given priority in the cleaning schedule. The method of disposal of the dust which is swept or vacuumed should also be planned.

(C) Dust may accumulate in somewhat inaccessible areas, such as those areas where ladders or scaffolds might be necessary to reach them. The employer may want to consider the use of compressed air and long lances to blow down these areas frequently. The employer may also want to consider the periodic use of water and hoses to wash down these areas. If these methods are used, they are to be specified in the housekeeping program along with the appropriate safety precautions, including the use of personal protective equipment such as eyewear and dust respirators.

(D) Several methods have been effective in controlling dust emissions. A frequently used method of controlling dust emissions is a pneumatic dust collection system. However, the installation of a poorly designed pneumatic dust collection system has fostered a false sense of security and has often led to an inappropriate reduction in manual housekeeping. Therefore, it is imperative that the system be designed properly and installed by a competent contractor. Those employers who have a pneumatic dust control system that is not working according to expectations should request the engineering design firm, or the manufacturer of the filter and related equipment, to conduct an evaluation of the

system to determine the corrections necessary for proper operation of the system. If the design firm or manufacturer of the equipment is not known, employers should contact their trade association for recommendations of competent designers of pneumatic dust control systems who could provide assistance.

(E) When installing a new or upgraded pneumatic control system, the employer should insist on an acceptance test period of thirty to forty five days of operation to ensure that the system is operating as intended and designed. The employer should also obtain maintenance, testing, and inspection information from the manufacturer to ensure that the system will continue to operate as designed.

(F) Aspiration of the leg, as part of a pneumatic dust collection system, is another effective method of controlling dust emissions. Aspiration of the leg consists of a flow of air across the entire boot, which entrains the liberated dust and carries it up the up-leg to take-off points. With proper aspiration, dust concentrations in the leg can be lowered below the lower explosive limit. Where a prototype leg installation has been instrumented and shown to be effective in keeping the dust level twenty five percent below the lower explosive limit during normal operations for the various products handled, then other legs of similar size, capacity and products being handled which have the same design criteria for the air aspiration would be acceptable to OSHA, provided the prototype test report is available on-site.

(G) Another method of controlling dust emissions is enclosing the conveying system, pressurizing the general work area, and providing a lower pressure inside the enclosed conveying system. Although this method is effective in controlling dust emissions from the conveying system, adequate access to the inside of the enclosure is necessary to facilitate frequent removal of dust accumulations. This is also necessary for those systems called "self-cleaning."

(H) The use of edible oil sprayed on or into a moving stream of grain is another method which has been used to control dust emissions. Tests performed using this method have shown that the oil treatment can reduce dust emissions. Repeated handling of the grain may necessitate additional oil treatment to prevent liberation of dust. However, before using this method, operators of grain handling facilities should be aware that the Food and Drug Administration must approve the specific oil treatment used on products for food and feed.

(I) As a part of the housekeeping program, grain elevators are required to address accumulations of dust at priority areas using the action level. The standard specifies a maximum accumulation of one eighth inch dust, measurable by a ruler or other measuring device, anywhere within a priority area as the upper limit at which time employers must initiate action to remove the accumulations using designated means or methods. Any accumulation in excess of this amount and where no action has been initiated to implement cleaning would constitute a violation of the standard, unless the employer can demonstrate equivalent protection. Employers should make every effort to minimize dust accumulations on exposed surfaces since dust is the fuel for a fire or explosion, and it is recognized that a one-eighth

inch dust accumulation is more than enough to fuel such occurrences:

(8) Filter collectors.

(a) Proper sizing of filter collectors for the pneumatic dust control system they serve is very important for the overall effectiveness of the system. The air to cloth ratio of the system should be in accordance with the manufacturer's recommendations. If higher ratios are used, they can result in more maintenance on the filter, shorter bag or sock life, increased differential pressure resulting in higher energy costs, and an increase in operational problems.

(b) A photohelic gauge, magnehelic gauge, or manometer, may be used to indicate the pressure rise across the inlet and outlet of the filter. When the pressure exceeds the design value for the filter, the air volume will start to drop, and maintenance will be required. Any of these three monitoring devices is acceptable as meeting WAC 296 99-060(1).

(c) The employer should establish a level or target reading on the instrument which is consistent with the manufacturer's recommendations that will indicate when the filter should be serviced. This target reading on the instrument and the accompanying procedures should be in the preventive maintenance program. These efforts would minimize the blinding of the filter and the subsequent failure of the pneumatic dust control system.

(d) There are other instruments that the employer may want to consider using to monitor the operation of the filter. One instrument is a zero motion switch for detecting a failure of motion by the rotary discharge valve on the hopper. If the rotary discharge valve stops turning, the dust released by the bag or sock will accumulate in the filter hopper until the filter becomes clogged. Another instrument is a level indicator which is installed in the hopper of the filter to detect the buildup of dust that would otherwise cause the filter hopper to be plugged. The installation of these instruments should be in accordance with manufacturer's recommendations.

(e) All of these monitoring devices and instruments are to be capable of being read at an accessible location and checked as frequently as specified in the preventive maintenance program.

(f) Filter collectors on portable vacuum cleaners, and those used where fans are not part of the system, are not covered by requirements of WAC 296 99-060.

(9) Preventive maintenance.

(a) The control of dust and the control of ignition sources are the most effective means for reducing explosion hazards. Preventive maintenance is related to ignition sources in the same manner as housekeeping is related to dust control and should be treated as a major function in a facility. Equipment such as critical bearings, belts, buckets, pulleys, and milling machinery are potential ignition sources, and periodic inspection and lubrication of such equipment through a scheduled preventive maintenance program is an effective method for keeping equipment functioning properly and safely. The use of vibration detection methods, heat sensitive tape or other heat detection methods that can be seen by the inspector or maintenance person will allow for a quick, accurate, and consistent evaluation of bearings and will help in the implementation of the program.

(b) The standard does not require a specific frequency for preventive maintenance. The employer is permitted flexibility in determining the appropriate interval for maintenance provided that the effectiveness of the maintenance program can be demonstrated. Scheduling of preventive maintenance should be based on manufacturer's recommendations for effective operation, as well as from the employer's previous experience with the equipment. However, the employer's schedule for preventive maintenance should be frequent enough to allow for both prompt identification and correction of any problems concerning the failure or malfunction of the mechanical and safety control equipment associated with bucket elevators, dryers, filter collectors, and magnets. The pressure drop monitoring device for a filter collector, and the condition of the lagging on the head pulley, are examples of items that require regularly scheduled inspections. A system of identifying the date, the equipment inspected and the maintenance performed, if any, will assist employers in continually refining their preventive maintenance schedules and identifying equipment problem areas. Open work orders where repair work or replacement is to be done at a designated future date as scheduled, would be an indication of an effective preventive maintenance program.

(c) It is imperative that the prearranged schedule of maintenance be adhered to regardless of other facility constraints. The employer should give priority to the maintenance or repair work associated with safety control equipment, such as that on dryers, magnets, alarm and shutdown systems on bucket elevators, bearings on bucket elevators, and the filter collectors in the dust control system. Benefits of a strict preventive maintenance program can be a reduction of unplanned downtime, improved equipment performance, planned use of resources, more efficient operations, and, most importantly, safer operations.

(d) The standard also requires the employer to develop and implement procedures consisting of locking out and tagging equipment to prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted, which could result in employee injury. All employees who have responsibility for repairing or servicing equipment, as well as those who operate the equipment, are to be familiar with the employer's lock and tag procedures. A lock is to be used as the positive means to prevent operation of the disconnected equipment. Tags are to be used to inform employees why equipment is locked out. Tags are to meet requirements in WAC 296-24-14001. Locks and tags may only be removed by employees that placed them, or by their supervisor, to ensure the safety of the operation.

(10) Grain stream processing equipment. The standard requires an effective means of removing ferrous material from grain streams so that such material does not enter equipment such as hammer mills, grinders, and pulverizers. Large foreign objects, such as stones, should have been removed at the receiving pit. Introduction of foreign objects and ferrous material into such equipment can produce sparks which can create an explosion hazard. Acceptable means for removal of ferrous materials include the use of permanent or electromagnets. Means used to separate foreign objects and ferrous material should be cleaned regularly and kept in

good repair as part of the preventive maintenance program in order to maximize their effectiveness.

(11) Emergency escape. The standard specifies that at least two means of escape must be provided from galleries (bin decks). Means of emergency escape may include any available means of egress, consisting of three components, exit access, exit, and exit discharge as defined in WAC 296-24-55001, the use of controlled descent devices with landing velocities not to exceed fifteen ft./sec., or emergency escape ladders from galleries. Importantly, the means of emergency escape are to be addressed in the facility emergency action plan. Employees are to know the location of the nearest means of emergency escape and the action they must take during an emergency.

(12) Dryers. Liquefied petroleum gas fired dryers should have the vaporizers installed at least ten feet from the dryer. The gas piping system should be protected from mechanical damage. The employer should establish procedures for locating and repairing leaks when there is a strong odor of gas or other signs of a leak.

(13) Inside bucket elevators.

(a) Hazards associated with inside bucket elevator legs are the source of many grain elevator fires and explosions. Therefore, to mitigate these hazards, the standard requires the implementation of special safety precautions and procedures, as well as the installation of safety control devices. The standard provides for a phase in period for many of the requirements to provide the employer time for planning the implementation of the requirements. Additionally, for elevators with a permanent storage capacity of less than one million bushels, daily visual inspection of belt alignment and bucket movement can be substituted for alignment monitoring devices and motion detection devices.

(b) The standard requires that belts (purchased after the effective date of the standard) have surface electrical resistance not to exceed 300 megohms. Test methods available regarding electrical resistance of belts are: The American Society for Testing and Materials D257-76, "Standard Test Methods for D-C Resistance or Conductance of Insulating Materials"; and, the International Standards Organization's No. 284, "Conveyor Belts Electrical Conductivity Specification and Method of Test." When an employer has a written certification from the manufacturer that a belt has been tested using one of the above test methods, and meets the 300 megohm criteria, the belt is acceptable as meeting this standard. When using conductive belts, the employer should make certain that the head pulley and shaft are grounded through the drive motor ground or by some other equally effective means. When V type drive belts are used to transmit power to the head pulley assembly from the motor drive shaft, it will be necessary to provide electrical continuity from the head pulley assembly to ground, e.g., motor grounds.

(c) Employers should also consider purchasing new belts that are flame retardant or fire resistive. A flame resistance test for belts is contained in 30 CFR 18.65.)

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-093 ((Appendix B, grain handling facilities.)) Reserved. ((National consensus standards.

The following table contains a cross reference listing of current national consensus standards which provide information that may be of assistance to grain handling operations. Employers who comply with provisions in these national consensus standards that provide equal or greater protection than those in this chapter will be considered in compliance with the corresponding requirements in this chapter.

Subject	National consensus standards
Grain elevators and facilities handling	
—bulk raw agricultural commodities	ANSI/NFPA 61B
Feed mills	ANSI/NFPA 61C
Facilities handling agricultural	
—commodities for human consumption	ANSI/NFPA 61D
Pneumatic conveying systems for	
—agricultural commodities	ANSI/NFPA 66
Guide for explosion venting	ANSI/NFPA 68
Explosion prevention systems	ANSI/NFPA 69
Dust removal and exhaust systems	ANSI/NFPA 91

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

WAC 296-99-095 ((Appendix C, grain handling facilities.)) Reserved. ((References for further information.

The following references provide information which can be helpful in understanding the requirements contained in various provisions of the standard, as well as provide other helpful information:

(1) Accident Prevention Manual for Industrial Operations; National Safety Council, 425 North Michigan Avenue, Chicago, Illinois 60611.

(2) Practical Guide to Elevator Design; National Grain and Feed Association, P.O. Box 28328, Washington, DC 20005.

(3) Dust Control for Grain Elevators; National Grain and Feed Association, P.O. Box 28328, Washington, DC 20005.

(4) Prevention of Grain Elevator and Mill Explosions; National Academy of Sciences, Washington, DC. (Available from National Technical Information Service, Springfield, Virginia 22151.)

(5) Standard for the Prevention of Fires and Explosions in Grain Elevators and Facilities Handling Bulk Raw Agricultural Commodities, NFPA 61B; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(6) Standard for the Prevention of Fire and Dust Explosions in Feed Mills, NFPA 61C; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(7) Standard for the Prevention of Fire and Dust Explosions in the Milling of Agricultural Commodities for Human Consumption, NFPA 61D; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

PROPOSED

(8) Standard for Pneumatic Conveying Systems for Handling Feed, Flour, Grain and Other Agricultural Dusts, NFPA 66; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(9) Guide for Explosion Venting, NFPA 68; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(10) Standard on Explosion Prevention Systems, NFPA 69; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(11) Safety Operations Plans; United States Department of Agriculture, Washington, DC 20250.

(12) Inplant Fire Prevention Control Programs; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(13) Guidelines for Terminal Elevators; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(14) Standards for Preventing the Horizontal and Vertical Spread of Fires in Grain Handling Properties; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(15) Belt Conveyors for Bulk Materials, Part I and Part II, Data Sheet 570, Revision A; National Safety Council, 425 North Michigan Avenue, Chicago, Illinois 60611.

(16) Suggestions for Precautions and Safety Practices in Welding and Cutting; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(17) Food Bins and Tanks, Data Sheet 524; National Safety Council, 425 North Michigan Avenue, Chicago, Illinois 60611.

(18) Pneumatic Dust Control in Grain Elevators; National Academy of Sciences, Washington, DC. (Available from National Technical Information Service, Springfield, Virginia 22151.)

(19) Dust Control Analysis and Layout Procedures for Grain Storage and Processing Plants; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(20) Standard for the Installation of Blower and Exhaust Systems for Dust, Stock and Vapor Removal, NFPA 91; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(21) Standards for the Installation of Direct Heat Grain Dryers in Grain and Milling Properties; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(22) Guidelines for Lubrication and Bearing Maintenance; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(23) Organized Maintenance in Grain and Milling Properties; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(24) Safe and Efficient Elevator Legs for Grain and Milling Properties; Mill Mutual Fire Prevention Bureau, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(25) Explosion Venting and Suppression of Bucket Elevators; National Grain and Feed Association, P.O. Box 28328, Washington, DC 20005.

(26) Lightning Protection Code, NFPA 78; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(27) Occupational Safety in Grain Elevators, DHHS (NIOSH) Publication No. 83-126; National Institute for Occupational Safety and Health, Morgantown, West Virginia 26505.

(28) Retrofitting and Constructing Grain Elevators; National Grain and Feed Association, P.O. Box 28328, Washington, DC 20005.

(29) Grain Industry Safety and Health Center Training Series. (Preventing grain dust explosions, operations maintenance safety, transportation safety, occupational safety and health); Grain Elevator and Processing Society, P.O. Box 15026, Commerce Station, Minneapolis, Minnesota 55415-0026.

(30) Suggestions for Organized Maintenance; The Mill Mutuals Loss Control Department, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(31) Safety The First Step to Success; The Mill Mutuals Loss Control Department, 1 Pierce Place, Suite 1260 West, Itasca, Illinois 60143-1269.

(32) Emergency Plan Notebook; Schoeff, Robert W. and James L. Balding, Kansas State University, Cooperative Extension Service, Extension Grain Science and Industry, Shellenberger Hall, Manhattan, Kansas 66506.)

#### WSR 97-09-080

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed April 22, 1997, 11:55 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 97-05-038.

Title of Rule: Weights and measures—National handbooks.

Purpose: To establish requirements for the state of Washington that are reasonably consistent with uniform state rules that have been adopted by the National Conference of Weights and Measures and that are in effect in other states.

Other Identifying Information: Subject matter encompasses: (1) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices; (2) uniform procedures for checking the net contents of packaged goods; (3) uniform packaging and labeling requirements; (4) uniform method of sale of commodities requirements; and (5) examination procedures for price verification.

Statutory Authority for Adoption: Chapter 19.94 RCW.

Statute Being Implemented: RCW 19.94.190, [19.94].195, [19.94].230, [19.94].340, [19.94].350, [19.94].370, [19.94].390, [19.94].400, and [19.94].420.

Summary: These rules will update Washington's weights and measures regulations and ensure they are reasonably consistent with the most recent uniform state rules adopted by the National Conference on Weights and Measures and with those in effect in other states. Adoption will permit Washington businesses and consumers to realize the same benefits of improved technology in weighing and

measuring that businesses and consumers in other areas of the United States enjoy.

**Reasons Supporting Proposal:** This rule incorporates the most current weights and measures requirements addressed and adopted by the National Conference on Weights and Measures into Washington state rule so that they are reasonably consistent with national uniform state rules.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Bob Arrington, 1111 Washington Street, Olympia, WA, (360) 902-1856.

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

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rule will update Washington state's weights and measures regulations and ensure that they are reasonably consistent with the most recent uniform state rules that have been adopted by the National Conference on Weights and Measures and that are in effect in other states. This rule consolidates under one rule: (1) The adoption of device specifications, tolerances and other technical requirements covered in the National Institute of Standards and Technology (NIST) Handbook 44; (2) checking the net contents of packaged goods as prescribed in the National Bureau of Standards (NBS) Handbook 133 with supplements; and (3) packaging and labeling; method of sale of commodities; and examination procedures for price verification as addressed in NIST Handbook 130.

**Proposal Changes the Following Existing Rules:** By adopting this rule, Washington's current regulations will be updated and incorporate the most recent uniform state rules, adopted by the National Conference on Weights and Measures. The consolidation of these regulations under this one rule will allow the department to repeal five WACs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These requirements are already in effect in Washington and the update to reflect the most current uniform state rules adopted by the National Conference on Weights and Measures will impose no additional costs upon business.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

**Hearing Location:** Natural Resources Building, 2nd Floor, Room 205, 1111 Washington Street, Olympia, WA, on May 27, 1997, at 10:00 a.m.

**Assistance for Persons with Disabilities:** Contact Cathy Jensen by May 22, 1997, TDD (360) 902-1996, or (360) 902-1976.

**Submit Written Comments to:** Washington State Department of Agriculture, Attn: Bob Arrington, P.O. Box 42560 or 1111 Washington Street, Olympia, WA 98504-2560, FAX (360) 902-2086, by May 27, 1997, 5:00 p.m.

**Date of Intended Adoption:** May 29, 1997.

April 22, 1997  
Julie C. Sandberg  
Assistant Director

## Chapter 16-662 WAC WEIGHTS AND MEASURES—NATIONAL ((BU- REAU OF STANDARDS)) HANDBOOKS

### NEW SECTION

**WAC 16-662-100 Purpose.** The purpose of this rule is to establish requirements for the state of Washington that are reasonably consistent with uniform state rules that have been adopted by the National Conference on Weights and Measures and that are in effect in other states. This chapter applies specifically to subject areas for:

(1) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices addressed in the *National Institute of Standards and Technology Handbook 44*;

(2) Uniform procedures for checking the net contents of packaged goods addressed in the *National Bureau of Standards Handbook 133* with supplements;

(3) Uniform packaging and labeling requirements;

(4) Uniform method of sale of commodities requirements; and

(5) Uniform examination procedures for price verification addressed in the *National Institute of Standards and Technology Handbook 130*. The publications cited in this chapter, Handbook 44, Handbook 130 and Handbook 133, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. For information regarding the contents of these publications, contact weights and measures in the Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560.

### NEW SECTION

**WAC 16-662-105 Adoption—Weighing and measuring equipment requirements—Package checking—Packaging and labeling—Method of sale—Price verification.** (1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment shall be those contained in the 1997 Edition of the National Institute of Standards and Technology (NIST) Handbook 44, published by the U.S. Department of Commerce, entitled the *National Institute of Standards and Technology Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices*.

(2) The procedures for checking the accuracy of the net contents of packaged goods shall be those contained in the Third Edition of National Bureau of Standards (NBS) Handbook 133 published by the United States Department of Commerce, entitled the *National Bureau of Standards Handbook 133 - Third Edition - Checking the Net Contents of Packaged Goods* as modified by NIST Handbook 133 Supplements 1, 2, 3, and 4, issued in 1990, 1991, 1992, and 1994 respectively.

(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification shall be those contained in the 1997 Edition of National Institute of Standards and Technology Handbook 130, entitled the *NIST Handbook 130 -*

PROPOSED

*Uniform Laws And Regulations in the areas of legal metrology and motor fuel quality, specifically:*

(a) Weights and measures requirements for all food and nonfood commodities in package form shall be the *Uniform Packaging and Labeling Regulation* requirements as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 1997 Edition.

(b) Weights and measures requirements for the method of sale of food and nonfood commodities shall be those found in the *Uniform Regulation for the Method of Sale of Commodities* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 1997 Edition.

(c) Weights and measures requirements for price verification shall be the *Examination Procedures for Price Verification* as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 1997 Edition.

#### NEW SECTION

**WAC 16-662-110 Modifications to NIST Handbook 44.** The following modifications are made to Handbook 44, identified in WAC 16-662-105:

(1) General Code:

(a) Section G-T. Tolerances. In paragraphs (b), (c), and (d) of subsection G-T.1. "Acceptance Tolerances", change "30 days" to "90 days".

(b) Section G-UR. User Requirements. In the last sentence of subsection G-UR.4.1. "Maintenance of Equipment", change "device user" to "device owner or operator".

(2) Scale Code: Section UR.3. Use Requirements. At the end of subsection UR.3.7.(a) add "and homeowner refuse".

(3) Appendix D Definitions, Direct Sale. Replace with the following: "A sale in which both parties in the transaction are present when the quantity is being determined."

#### NEW SECTION

**WAC 16-662-115 Modifications to NIST Handbook 130.** The following modifications are made to the *Uniform Regulation for the Method of Sale of Commodities* requirements published in NIST Handbook 130, identified in WAC 16-662-105 (3)(b):

(1) Section 2.5. Peat and Peat Moss. Modify Section 2.5.2.2. Cubic Measure by deleting the struck-through words as follows: 2.5.2.2. Cubic Measure. — Peat and peat moss sold in terms of cubic measures shall be offered and exposed for sale only in liters and/or cubic feet. If the commodity is labeled in terms of compressed cubic measurement, the quantity declaration shall represent the quantity in the compressed state.

(2) Section 2.20. Gasoline-Oxygenate Blends. Delete Section 2.20 because requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC.

(3) Section 2.23. Animal Bedding. Add a new subsection 2.23.1. Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. As used in this subsection, "unit"

means a standard volume equal to 200 cubic feet. Quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials when advertised, offered for sale, or sold within the state of Washington shall be in terms of cubic measure or units and fractions thereof.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-662-070	Promulgation.
WAC 16-662-071	Replacement of amendments.

**WSR 97-09-081  
PROPOSED RULES  
PARKS AND RECREATION  
COMMISSION**

[Filed April 22, 1997, 1:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-063.

Title of Rule: Use of metal detectors in state parks.

Purpose: To remove the "day use are [area]" language from WAC 352-32-235 Metal detecting.

Statutory Authority for Adoption: RCW 43.51.040 and 43.51.180(7).

Statute Being Implemented: SHB 1061 enacted during 1997 legislative session.

Summary: Amends existing rule by permitting use of metal detectors in approved state parks and removing language which restricts their use to day use areas.

Reasons Supporting Proposal: In response to proposed legislation and continued requests from metal detectorists, state parks staff are proposing to expand the public service, specifically for recreational metal detecting in state parks.

Name of Agency Personnel Responsible for Drafting: Allan Jacobson, 7150 Cleanwater Lane, 902-8606; Implementation and Enforcement: Kathryn J. Smith, 7150 Cleanwater Lane, 902-8594.

Name of Proponent: Washington State Parks and Recreation Commission in cooperation with Federation of Metal Detectors group, private and governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To provide controls on the use of metal detectors and the removal of small contemporary materials in state parks areas. This proposed amendatory section provides for "approved areas for metal detecting" according to commission's land management directions.

Proposal Changes the Following Existing Rules: Staff recommends that the commission adopt the proposed amended WAC 352-32-235 to allow metal detecting in approved campsites, in approved campgrounds. This could also allow detecting in seasonally closed campsites within opened parks.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This WAC amendment does not regulate or have an economic impact through

regulations on small businesses. There are no compliance costs to small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant legislative rule-making requirements are not imposed on the state Parks and Recreation Commission nor has the commission voluntarily applied these requirements.

Hearing Location: Red Lion Inn, 1225 North Wenatchee Avenue, Wenatchee, WA, on May 30, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Tom Ernsberger by May 20, 1997, TDD (509) 664-3162, or (509) 662-0420.

Submit Written Comments to: Kathryn J. Smith, 7150 Cleanwater Lane, Olympia, WA 98504-265 [98504-2650], FAX (360) 586-5875, by May 23, 1997.

Date of Intended Adoption: May 30, 1997.

April 22, 1997

Jim French

Policy Analyst

**AMENDATORY SECTION** (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

**WAC 352-32-235 Use of metal detectors in state parks.** The use and operation of metal detectors, as well as the removal of small contemporary materials, is permitted within selected state parks as designated by the director, in accordance with all commission direction on land management, and subject to the conditions and limitations specified.

(1) The use of metal detectors is permitted only within specified portions of ~~((the developed day use areas of these))~~ approved state parks as posted for public reference. Metal detecting may be allowed in approved campsites occupied by the registered camper and unoccupied campsites within approved campgrounds.

(2) The use of metal detectors within a state park shall be limited to daylight hours that the park has posted as "open." No use shall be allowed during periods of seasonal or emergency park closure, except where otherwise posted.

(3) Any person wishing to use a metal detector shall so indicate to park personnel at the park where the use is to occur, by complying with the registration process provided for such purpose.

(4) Exceptional uses of metal detectors in state parks may be allowed through the issuance of a special recreation event application, available from the agency.

(5) This section does not apply to commission employees while engaged in the performance of their duties.

(6) Persons operating metal detectors in state parks and state park areas shall:

(a) Observe all laws and regulations.

(b) Never destroy or disturb park facilities, natural features, or historical or archeological resources. No item which appears to be of historical or archaeological significance, remaining from either early pioneer activity or from a native American presence, may be removed from the site at which it was found. Any such find shall be immediately reported to park personnel, and the area in which the find occurred shall not be disturbed further.

(c) Limit digging implements to ice picks, screwdrivers and probes not to exceed two inches in width and sand scoops not to exceed six inches in width and eight inches in length, containing perforations no less than one-half inch in width, to be used only on sand surfaces. Any holes dug shall be limited to six inches maximum depth and shall be immediately refilled and the surface restored to its earlier condition.

(d) Properly dispose of all found or recovered trash and litter.

(e) Conduct themselves with thoughtfulness, courtesy and consideration for others, and not interfere with other recreational activities. An operator shall not allow any emitted metal detector sound audible to other park users from the Friday before Memorial Day through Labor Day.

(7) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

#### WSR 97-09-084

#### PROPOSED RULES

#### THE EVERGREEN STATE COLLEGE

[Filed April 22, 1997, 2:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-04-044 [97-05-044].

Title of Rule: Repealing chapter 174-122 WAC, Mid-contract termination with adequate cause; amending chapter 174-276 WAC, Access to public records; amending chapter 174-133 WAC, Organization; repealing chapter 174-130 WAC, Tuition and fees; and amending chapter 174-140 WAC, State Environmental Policy Act.

Purpose: In compliance with Executive Order 97-02, The Evergreen State College has begun a regulatory review of administrative rules and their impact on businesses and the general public, including a review of their need, effectiveness, reasonableness, clarity, potential conflicting requirements, and consistency with legislative intent.

Statutory Authority for Adoption: RCW 28B.40.120(12).

Statute Being Implemented: RCW 28B.40.120.

Summary: To revise, update and repeal policies to comply with current statute.

Reasons Supporting Proposal: Compliance with current law and Executive Order 97-02.

Name of Agency Personnel Responsible for Drafting: Lee Hoemann, Library 3108, (360) 866-6000, ext. 6116; Implementation and Enforcement: Jane Jervis, Library 3109, (360) 866-6000, ext. 6100.

Name of Proponent: The Evergreen State College, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Chapter 174-276 WAC, Access to public records, implements public records laws; chapter 174-133 WAC, Organization, publicly identifies meeting schedule for Evergreen's board of trustees; and chapter 174-140 WAC, State Environmental Policy Act, meets requirements for

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mandated rule making under the state environmental policy section.

Proposal Changes the Following Existing Rules: Chapter 174-122 WAC, Mid-contract termination with adequate cause, repeal, does not need to be codified; chapter 174-276 WAC, Access to public records, updating and changing college response time to comply with current statute; chapter 174-133 WAC, Organization, revision to reflect current meeting schedule for the board of trustees; chapter 174-130 WAC, Tuition and fees, repeal, does not need to be codified; and chapter 174-140 WAC, State Environmental Policy Act, revise to eliminate sections that are not necessary in the WAC, assure college's compliance with the current statute, and appoint a responsible party.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no economic impact.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: CAB 110, The Evergreen State College, Olympia, Washington, on Wednesday, May 28, 1997, at 3:30 - 5:00 p.m.

Assistance for Persons with Disabilities: Contact Linda Pickering by May 14, 1997, TDD (360) 866-6834, or (360) 866-6000, ext. 6348.

Submit Written Comments to: Lee Hoemann, Library 3103, The Evergreen State College, Olympia, Washington, FAX (360) 866-6823, by May 27, 1997.

Date of Intended Adoption: May 29, 1997.

April 21, 1997  
D. Lee Hoemann  
Executive Associate  
to the President

**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-133-020 Organization—Operation—Information.** (1) **Organization.** The Evergreen State College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a seven-member board of trustees appointed by the governor. The board normally meets (~~once per calendar month~~) the second Wednesday of February, April, May, June, August, October and December. The meeting schedule is published in the Washington State Register maintained by the code reviser's office. The board establishes such divisions and units necessary to carry out the purpose of the college, provides the necessary property, facilities and equipment and promulgates such rules, regulations, and policies as are necessary to the administration of the college. The board employs a president and has delegated to the president the authority to employ members of the faculty and other employees. The president acts as the chief executive officer of the institution and establishes the structure of the administration.

(2) **Location.** The Evergreen State College is located on a campus in Thurston County, near the city of Olympia, Washington.

(3) **Operation.** The administrative office of The Evergreen State College is at the following address:

The Evergreen State College Campus  
Olympia, WA 98505

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Educational operations are also located at the following addresses:

The Evergreen State College Campus  
Olympia, WA 98505

TESC Tacoma Campus  
1202 (~~South K Street~~)  
Martin Luther King Jr. Way  
Tacoma, WA 98405

(4) Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Office of Admissions  
The Evergreen State College Campus  
Olympia, WA 98505

#### NEW SECTION

**WAC 174-140-010 Implementation of State Environmental Policy Act.** (1) It shall be the policy of The Evergreen State College that all actions taken by the college shall comply with the provisions of chapter 43.21C RCW (the State Environmental Policy Act) and chapter 197-11 WAC, as presently enacted or hereafter amended.

(2) The president of The Evergreen State College shall be responsible for administering and implementing this policy. The president shall designate the college personnel who will be responsible for carrying out the duties and functions of the college as set forth or incorporated herein.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 174-140-180	Introduction.
WAC 174-140-190	Consultation with environmental advisory committee.
WAC 174-140-200	State Environmental Policy Act compliance.
WAC 174-140-210	State Environmental Policy Act "responsible official."
WAC 174-140-220	Information center and register distribution.
WAC 174-140-230	Publication of notice of action.
WAC 174-140-240	Emergency procedures.

#### **Chapter 174-276 WAC** **ACCESS TO PUBLIC RECORDS**

#### NEW SECTION

**WAC 174-276-005 Purpose.** The purpose of this chapter is to provide rules for The Evergreen State College implementation of the provisions of chapter 42.17 RCW relating to public records.

**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-276-010 Definition of public record.** (1) A public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by The Evergreen State College, regardless of the physical form or characteristics (~~provided, however, that in accordance with RCW 42.17.310, the following personal and other records are exempt from the definition of public record:~~ (1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers or parolees.

(2) Personal information in files maintained for employees, appointees or elected officials or any public agency to the extent that disclosure would violate their right to privacy.

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(4) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(5) Information revealing the identity of persons who file complaints with investigative, law enforcement or penology agencies, except as the complainant may authorize.

(6) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(7) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three years after the appraisal.

(8) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(9) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(10) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital government interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical

information not descriptive of any readily identifiable person or persons).

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-276-040 Designation of public records officers.** ((1) In accordance with the requirements of chapter 42.17 RCW, insofar as such chapter requires state agencies to adopt and enforce reasonable rules and regulations to provide full public access to official records while yet protecting the same from damage and to prevent excessive interference with essentials of the agency, all public records at the college shall be in the charge of persons holding positions as records officers.

(2) Overall responsibility for coordinating responses to requests for examination of public records shall be the responsibility of the person known as the "public records officer." The person holding such position will be headquartered in the Daniel J. Evans Library Building of the college; his or her exact location and name may be determined by inquiry at the office of the president of the college. The public records officer shall also be responsible for compiling and maintaining the index required by chapter 42.17 RCW.

(3) For purposes of this chapter, the custody of the college's records shall be divided into the following divisions:

- (a) Office of the president;
- (b) Office of the vice president and provost;
- (c) Office of the vice president for finance and administration;
- (d) Office of the vice president for college advancement.

The heads of the above designated divisions shall be deemed custodian of the records in the possession or control of units and employees of his division and responsible for the care and custody of records within his division even though such person is not in actual possession or control of such records. The four persons mentioned above shall be known as the college "records custodians."

(4) In any cases where a question arises as to whether a given public record is a responsibility of one records custodian or another, the determination of such ministerial responsibility shall for the purposes of this chapter be made by the public records officer, or the president of the college.) The public records officer for the college shall be the executive associate to the president or the president's designee within the office of the president. The public records officer shall be responsible for insuring full public access to public records in accordance with chapter 42.17 RCW. The public records officer shall enforce the rules and regulations related to release of public records and coordinate such with the faculty, staff, and students of the college.

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**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-276-050 Availability for public inspection and copying of public records.** Public records shall be available for inspection and copying during the customary office hours of the college. For the purposes of this chapter, the customary office hours shall be from 9 a.m. to noon and from 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, unless the person making the request and the college, acting through the public records officer (~~or a records custodian~~), agree on a different time.

**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-276-060 Requests for public records.** In accordance with the requirements of chapter 42.17 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records are only obtainable by members of the public when those members of the public comply with the following procedures:

(1) A request shall be made in writing upon a form which shall be available at the office of the public records officer and shall be presented to the public records officer or (~~any other of the persons designated by this chapter as a custodian of certain college records, per WAC 174-276-040~~) the president's designee. Such request shall include the following:

- (a) The name of the person requesting the record.
  - (b) The time of day and calendar date on which the request was made.
  - (c) If the matter requested is referenced within the current index maintained by the college records officer, a reference to the requested record as it is described in such index.
  - (d) If the requested matter is not identifiable by reference to the college records current index, a statement that succinctly describes the record requested.
  - (e) A verification that the records requested shall not be used to compile a commercial sales list.
- (2) In all cases in which a member of the public is making a request, it shall be the obligation of the college person to whom the request is being made to assist the member of the public in succinctly identifying the public record requested.

**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-276-080 Determination regarding exempt records.** (1) The college reserves the right to determine that a public record requested in accordance with the procedures of this chapter is exempt under the provisions of RCW 42.17.310. Such determination may be made in consultation with any of the records officers of the college, president of the college, or an assistant attorney general assigned to the college.

(2) Responses to requests for records must be made promptly. For the purpose of these rules, a prompt response

occurs if the person requesting the public record is notified within (~~one~~) five business days as to whether her or his request for a public record will be honored.

(3) No denial of a request for public records shall be valid unless accompanied by a written statement, signed by the public records officer or his or her designee, specifying the specific reasons therefor. The following nonexhaustive lists are examples of records exempted from public inspection and copying:

(a) Personal information in any files maintained for students in public schools; patients or clients of public institutions or public health agencies; welfare recipients; prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointed or elected officials, or any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax, if the disclosure of the information to other persons would violate the taxpayer's right to privacy or would result in unfair competitive disadvantage to such taxpayer.

(d) Specific intelligence information and specific investigative files compiled by investigative, law enforcement and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement or penology agencies, except as the complainant may authorize.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition of property, until the project is abandoned or until such time as all of the property has been acquired, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of information would:

- (i) Be prohibited to such persons by RCW 82.32.330; or
- (ii) Violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(l) Records, maps, or other information identifying the location of archeological sites in order to avoid the looting or depredation of such sites.

(m) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(n) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to the applicant.

(o) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers. RCW 51.36.120.

(p) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(q) Information that identifies a person who, while an agency employee:

(i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and

(ii) Requests his or her identity or any identifying information not be disclosed.

(r) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(s) Business related information protected from public inspection and copying under RCW 15.86.110.

(4) The exemptions of this section shall be inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital government interest, can be deleted from the specific records sought. No exemption shall be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(5) Prior to releasing personal information regarding an identifiable person or persons, the college must notify the affected person or persons in writing and provide them with a two-week opportunity to seek an injunction through Thurston County superior court preventing the release of the document or documents in question. The affected person or persons may waive the two-week notice requirement under this section by contacting the public records officer in writing of said waiver.

**AMENDATORY SECTION** (Amending WSR 90-04-011, filed 1/26/90, effective 2/26/90)

**WAC 174-276-090 Review of denials for public records requests.** (1) Any person who objects to the denial of a request for a public record shall petition for prompt review of such decision by tendering a written request for a review of such denial. Such written request by a person demanding prompt review shall specifically reference the

written statement by the college denying that person's request for a public record.

(2) Within two business days after receiving the written request by a person petitioning for prompt review of a decision denying a public record, the president of the college or any of her or his designees, which for the purposes of this section may include the public records officer (~~or the records custodians~~), shall consider such petition.

(3) During the course of the two business days in which the president or her or his designee reviews the decision of the public records officer denying the request for a public record, the president or (~~his~~) designee may conduct an informal hearing. During the course of such informal hearing, the president or (~~his~~) designee may require that the person requesting the public record appear in person at a reasonable time and place located on the campus and further explain and identify the exact nature of the public record she or he is seeking. Failure by the person requesting the review hearing to appear at such informal hearing shall be deemed a waiver of that person's right to insist upon completion of the review of his request within two business days. If the petitioner requesting review does appear at such informal hearing, then the period for review by the college shall be extended to a period not exceeding twenty-four hours after such person requesting review has appeared before the president or (~~his~~) designee.

(4) During the course of the informal hearing conducted by the president or his or her designee under this section, the hearing officer shall consider the obligations of the college fully to comply with the intent of chapter 42.17 RCW insofar as it requires providing full public access to official records, but shall also consider the exemptions provided in RCW 42.17.310 and the requirement of RCW 42.17.250 insofar as it requires the college to protect public records from damage or disorganization, prevent excessive interference with essential functions of the agency, and to prevent any unreasonable invasion of personal privacy by deleting identifying details.

(5) Administrative remedies shall not be considered exhausted until the college has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

#### NEW SECTION

**WAC 174-276-095 Requests for review.** As provided in RCW 42.17.325, "Whenever a state agency concludes that a public record is exempt from disclosure and denies a person opportunity to inspect or copy a public record for that reason, the person may request the attorney general to review the matter."

**WSR 97-09-090**

**PROPOSED RULES**

**HOUSING FINANCE COMMISSION**

[Filed April 23, 1997, 9:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-112.

Title of Rule: Rules of conduct.

Purpose: Amend the commission's rules of conduct to implement the ethics in public service law codified at chapter 42.52 RCW.

Statutory Authority for Adoption: Chapter 43.180 RCW.

Statute Being Implemented: Chapter 42.52 RCW.

Summary: The proposed rules amend the commission's rules of conduct.

Reasons Supporting Proposal: The amended rules will implement the ethics in public service law codified at chapter 42.52 RCW.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark McLaughlin, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, (206) 287-4462.

Name of Proponent: Washington State Housing Finance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules amend the commission's rules of conduct to implement the ethics in public service law codified at chapter 42.52 RCW.

Proposal Changes the Following Existing Rules: The proposal amends WAC 262-02-020 to 262-02-030. It explicitly recognizes the importance of maintaining public trust in the commission's unbiased expertise and impartial decision making. It permits a commissioner or a commission employee to accept awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement. It revises examples related to limitations on gifts.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose costs on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule relates only to internal governmental operations that are not subject to violation by a nongovernment party, see RCW 34.05.328 (5)(b)(ii).

Hearing Location: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, on June 26, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Mark McLaughlin by June 19, 1997, (206) 464-7139.

Submit Written Comments to: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, FAX (206) 587-5113, by June 25, 1997.

Date of Intended Adoption: June 26, 1997.

April 22, 1997

Mark McLaughlin

Deputy Executive Director

**AMENDATORY SECTION** (Amending WSR 85-18-031, filed 8/28/85)

**WAC 262-02-020 Purpose.** (1) Certain provisions of Chapter 154, Laws of 1994, "Ethics in Public Service" require interpretation through regulation to protect the Washington state housing finance commission (the "commission") and its commissioners and employees from violations of law. As provided in RCW 42.52.200, the commission

may adopt rules consistent with law, for use within the commission.

(2) The legislature intended that commissioners appointed to the commission have experience with and expertise in housing matters, including housing construction and finance, and that they represent various industry and consumer groups. RCW 43.180.040(2). The commission intends that its commissioners actively participate in and lend their expertise to the deliberations of the commission. These regulations are intended to insure that decisions of the commission are based on the expertise and unbiased judgment of these commissioners and not on their self-interest.

(3) The commission issues bonds to provide a secondary market for the financing of housing and nonprofit facilities. As a result, commissioners and commission employers work closely with private sector lenders, underwriters, mortgage bankers, financial advisors, lawyers and accountants. While the commission is regularly engaged in private sector transactions, it is a public entity established by the legislature. The legislature has determined that certain activities that may be common to professional relationships in the private sector may be inappropriate or illegal when conducted by commissioners and commission employees. These regulations are intended to insure that the activities of commissioners and commission staff are consistent with the highest degree of professional conduct for public appointees and employees. Also, these regulations recognize the importance of maintaining public trust in the commission's unbiased expertise and impartial decision-making. The regulations are intended to ensure that commissioners and commission staff exercise their discretion in a manner that does not create even a perception of bias.

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

**AMENDATORY SECTION** (Amending WSR 85-18-031, filed 8/28/85)

**WAC 262-02-030 Rules of conduct.** (1) Activities Incompatible with Public Duties; Financial Interests in Transactions. No commissioner or commission employee may be beneficially interested, directly or indirectly, in a contract, sale, lease, purchase, or grant that may be made by, through, or is under the supervision of the commissioner or commission employee, in whole or in part, or accept, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract, sale, lease, purchase or grant.

No commissioner or commission employee may participate, in his or her official capacity, in a transaction involving the state with a partnership, association, corporation, firm or other entity of which the commissioner or commission employee is an officer, agent, employee or member, or in which the commissioner or commission employee owns a beneficial interest.

A commissioner may participate in a general discussion with respect to a method or system of financing for housing or nonprofit facilities which could benefit an industry or interest group which includes an entity of which the com-

missioner is an officer, agent, employee or member or in which the commissioner owns a beneficial interest; provided, that such commissioner shall announce or otherwise make known such involvement at the time of such discussion, and; provided further, that such commissioner's participation be limited to providing general expertise and not include any attempt to influence the votes of other commission members in favor of the entity with which such commissioner is so involved. A commissioner shall abstain from any vote taken by the Commission to approve a transaction involving the commission with an entity with which the commissioner is so involved, and if a commissioner abstains from voting because of such involvement such commissioner shall announce for the record his or her reason for his or her abstention.

The commission may contract with a partnership, association, corporation, firm or other entity of which the commissioner is an officer, agent, employee or member or in which the commissioner owns a beneficial interest so long as each commissioner so involved with such entity abstains from voting and the reason for such abstention is announced for the record at the time of such vote.

Example 1. A commissioner serves as an officer and member of the board of directors of a savings and loan company. The commission is considering a program involving the issuance of bonds to provide for the acquisition of mortgage loans originated by mortgage lenders across the state. The commissioner may participate in a general discussion of the commission's program for financing mortgage loans and the commission may enter into a contract for the origination and sale of mortgage loans with the savings and loan company on whose board the commissioner sits; provided, that (a) at the time of the discussion, the commissioner informs the other commissioners of his involvement with the savings and loan company, (b) the commissioner abstains from any vote approving any contract between the commission and the savings and loan company, and (c) at the time of such vote, the commissioner explains the reason for his abstention.

Example 2. A commissioner and a commission employee serve without compensation on a housing advisory committee established by the Federal National Mortgage Association. The commissioner and the commission employee may participate fully in the consideration and approval of contracts between the Federal National Mortgage Association and the commission for the purchase and sale of commission bonds and for the credit enhancement of single-family and multifamily mortgages, because neither the commissioner nor the commission employee has any direct or indirect interest in the Federal National Mortgage Association as a member of an advisory committee and their participation in discussions and approval of such arrangements is in the public interest.

(2) Limitations of Gifts. No commissioner or commission employee may receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from a person if it could be reasonably expected that the gift, gratuity, or favor would influence the vote, action, or judgment of the commissioner or employee, or be considered as part of a reward for action or inaction.

No commissioner or commission employee may accept gifts other than those specified below:

(a) unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(b) unsolicited items received for the purpose of evaluation or review if the commissioner or commission employee has no personal beneficial interest in the eventual use or acquisition of the item by the commission;

(c) informational material, publications, or subscriptions related to the recipient's performance of official duties;

(d) food and beverages consumed at hosted receptions where attendance is related to the official duties of the commissioner or the commission employee;

(e) admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;

(f) unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(g) items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

(h) items exchanged among commissioners and commission employees or a social event hosted or sponsored by a commissioner or commission employee for coworkers;

(i) items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence with respect to the Commission;

(j) items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(k) campaign contributions reported under chapter 42.17 RCW;

(l) discounts available to an individual as a member of an employee group, occupation or similar broad-based group; ~~and~~

(m) awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement; and

~~(n)~~ items a commissioner or commission employee is authorized to accept by law.

A commissioner or commission employee is specifically prohibited from accepting the following items from a person or entity who seeks to provide goods or services to the commission:

(a) payments of expenses incurred in connection with a speech, presentation, appearance or trade mission made in an official capacity;

(b) payments for seminars and educational programs sponsored by a bona fide nonprofit professional, education, or trade association, or charitable institution; or

(c) flowers, plants and floral arrangements.

Example 1. Following the successful closing of a bond transaction, an underwriter, a bond attorney, a commissioner and two commission employees go to a restaurant to celebrate. Neither the commissioner nor the commission staff may permit the underwriter or the bond attorney to host the celebration, because the underwriter is potentially seeking to provide services to the commission and none of the exceptions applicable to accepting food or beverages, i.e., a hosted reception or a civic event, apply. The commissioner

and commission employee may attend the closing celebration and, at their own expense (or, if appropriate, at the expense of the Commission), may pay for their meals.

Example 2. During a recess in the Commission's public meeting, an underwriter, a commissioner and two commission employees go to a restaurant for lunch and discuss, among other things, commission matters. Neither the commissioner nor the commission staff may permit the underwriter to buy their lunch.

Example 3. In the course of an all day session to review bond documents, bond counsel orders sandwiches for underwriters, attorneys, and commission staff. Commission staff may accept such lunch only if it is ultimately paid by the Commission from bond proceeds as a cost of issuing the bonds or from an alternative source of commission funds.

Example 4. Commissioners and commission staff attend a national convention of state housing authorities. The commissioners, commission staff and their spouses are invited to a cocktail reception, followed by a sit-down dinner, for all convention attendees. The reception and dinner are co-sponsored by several underwriters. At the cocktail reception, the co-hosts provide food and beverages, including substantial hors d'oeuvres. There are some tables where guests may be seated but most people stand. Commissioners and commission staff may attend the cocktail reception. Because the event is co-hosted, it does not create any perception that the attendees are favoring a particular business entity. Also, the event involves a diverse group of people, rather than solely commissioners, commission staff, and persons who provide goods and services to the commission. Finally, even though tables and chairs are provided, it is not a sit-down meal. Commissioners and commission staff may not attend the dinner following the cocktail reception (without compensating the hosts for the cost of the dinner) because it is a sit-down dinner rather than a hosted reception. The Commission hosts a dinner to celebrate a successful bond transaction, make presentations to employees and Commission contractors, discuss significant housing trends and build rapport among its finance team. The commission invites local political and civic leaders. Commissioners and commission staff may accept such meal because it is paid from commission funds.

Example 5. Prior to the dinner, an underwriter and bond counsel host a reception at which refreshments are served. The commissioners and commission staff may accept such refreshments since the hosted event has characteristics of a public reception which the commission and staff attend as part of their official duties as opposed to a private event such as the bond closing celebration described in Example 4.

Example 56. An underwriter invites a commissioner with whom he has enjoyed a personal friendship to a holiday open house at his home. The commissioner and her spouse his wife may attend the party and partake of food and beverage since the underwriter enjoys a friendship with the commissioner and it is clear beyond a reasonable doubt that the gift of food and beverage in the context of a holiday open house was not designed to gain or maintain influence.

Example 7. Commissioners and commission staff attend a national convention of state housing authorities. The commissioners, commission staff and their spouses are

invited to a reception for all convention attendees sponsored by underwriters and bond counsel. The commissioners and commission staff may attend and accept food and beverages because such reception is a public event related to their official duties. The commission and commission staff must decline the invitation of an underwriting firm to host a private dinner for commissioners and commission staff because it is not part of their official duties as attendees of the convention.

Example 68. At the same a national convention for state housing authorities, a commission employee is invited to accept a T-shirt on which there is emblazoned printed the a logo of an underwriter. The employee may accept such gift because it is advertising material of nominal value.

Example 7. Fannie Mae offers a commission employee a scholarship to attend a series of educational classes. The class material is relevant to the employee's responsibilities. The employee cannot accept the scholarship because Fannie Mae is an entity who seeks to provide services to the commission.

Example 8. A commission employee is invited to participate in a panel discussion before a housing industry group. The lunch of each panel member is paid for by the host organization. The commission employee may not accept such lunch (without compensating the hosts for the cost of the lunch) because it is a sit-down lunch rather than a hosted reception. Because participation in such a panel discussion is likely to promote the interests of the commission, the commission employee is encouraged to seek reimbursement for the costs of such meal from the commission.

Example 9. A commissioner and a commission employee are invited by a bank to a hosted luncheon at which a noted speaker will give a report on the economy. The commissioner and commission employee may accept such a meal because the event is essentially a hosted reception and the commissioner and commission employee would be attending as official representatives of the commission.

Discussion. The purpose of the rule and the statute on which it is based is both to prevent the acceptance of gifts by commissioners and commission employees that could influence commission decision making and to prohibit the acceptance of gifts which could be interpreted to influence such decision-making. Thus, the rule recognizes the importance of ensuring the commission's impartiality.

The rule also ensures that commissioners and commission staff with experience and expertise in housing matters are able to contribute this experience and expertise to the commission's work in an unbiased manner.

Finally, the rule stresses the importance of maintaining the public trust in this impartiality. Therefore, the rule prohibits the acceptance of gifts that could be interpreted as influencing such decision-making. Although it would be difficult to believe that any commissioner or commission employee would be influenced by the acceptance of gifts or a sit-down meal, the commission seeks to regulate the acceptance of gifts that could be inappropriately interpreted as influencing commission decision making.

The rule is not designed to prevent commissioners, commission staff and those with whom the commission contracts from eating together, being social friends or in

certain appropriate public situations attending as representatives of the commission hosted receptions events at which refreshments are served.

**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 97-09-091**  
**PROPOSED RULES**  
**HOUSING FINANCE COMMISSION**

[Filed April 23, 1997, 9:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-112.

Title of Rule: Designees.

Purpose: Allowing for the appointment of designees to act on behalf of commission members.

Statutory Authority for Adoption: Chapter 43.180 RCW.

Summary: The proposed rules amend the commission's procedure for appointing designees.

Reasons Supporting Proposal: The revised rules will allow the commission to approve designees to act until replaced by the ex officio member.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark McLaughlin, 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, (206) 287-4462.

Name of Proponent: Washington State Housing Finance Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules amend the commission's procedure for appointing designees. The revised rules will allow the commission to approve designees to act until replaced by the ex officio member.

Proposal Changes the Following Existing Rules: The proposal amends WAC 262-01-030(8). It provides that an ex officio member of the commission may appoint a designee in writing, and that, upon approval of the commission, the designee shall serve as a member of the commission until replaced by the ex officio member.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not impose costs on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule relates only to internal governmental operations that are not subject to violation by a nongovernmental party, see RCW 34.05.328 (5)(b)(ii).

Hearing Location: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, on June 26, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Mark McLaughlin by June 19, 1997, (206) 464-7139.

Submit Written Comments to: 1000 Second Avenue, Suite 2700, Seattle, WA 98104-1046, FAX (206) 587-5113, by June 25, 1997.

Date of Intended Adoption: June 26, 1997.

April 22, 1997

Mark McLaughlin  
Deputy Executive Director

AMENDATORY SECTION (Amending WSR 84-04-042, filed 1/27/84)

**WAC 262-01-030 (8) Designees.** Subject to the approval of a majority of the commission present and voting at a duly constituted meeting in accordance with WAC 262-01-040, an ex officio member of the commission ~~may~~ identified in RCW 43.180.030 (2)(a) or (b) may appoint a designee in writing to act on his or her behalf ~~until the next public meeting.~~ Upon such approval of the commission, the designee shall serve as a member of the commission with full authority to vote or carry out the duties of ~~the~~ his or her office of the ex officio member until the expiration of the designee's written appointment or the ex officio member appoints a temporary or permanent successor to such designee. The term of an appointee shall automatically expire upon replacement of the designating ex officio member. Nothing herein shall prevent the ex officio member from carrying out his or her duties himself or herself during the term of such appointment, in which case the authority of the designee shall be temporarily suspended.

**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 97-09-092**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**

[Filed April 23, 1997, 9:40 a.m.]

Original Notice.

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

Title of Rule: Allowable fees for searching and duplicating medical records.

Purpose: The proposed changes adjust the fee that medical providers may charge for searching and duplicating medical records.

Other Identifying Information: The adjustment is based on the change in the consumer price index based on all consumers for the Seattle/Tacoma area for fiscal years 1996 and 1997. In addition, this rule has been rewritten to improve clarity.

Statutory Authority for Adoption: RCW 70.02.010(12) and 43.70.040.

Statute Being Implemented: RCW 70.02.010(12).

Summary: The fees that providers can charge for searching and duplicating medical records cannot exceed .74

cents per page for the first thirty pages and .57 cents per page for all others. The clerical fee may not exceed seven-teen dollars.

Reasons Supporting Proposal: The proposed rule allows providers to recoup the inflationary costs of providing this service. This adjustment is mandated to occur biennially, and the last update was July 1995.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michelle Davis, 1112 S.E. Quince Street, Olympia, 98504, (360) 586-0342.

Name of Proponent: Washington State Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule increases the fees that medical providers may charge for searching and duplicating medical records. The fees are not to exceed .74 cents per page for the first thirty pages, .57 per page for all other pages, and clerical fees may not exceed \$17. The increase is designed to assist providers in recouping the cost for maintaining, searching, and duplicating medical records.

Proposal Changes the Following Existing Rules: The rule increases the fees that a provider may charge for searching and duplicating medical records, and the old text is rewritten to improve readability.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt under RCW 34.05.310(4), and therefore does not require a small business economic impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This rule is not a "legislatively significant rule," it does not subject individuals to penalties or sanctions, does not establish, alter or revoke a qualification or standard for licensure, and does not make significant amendment to a policy or regulatory program.

Hearing Location: Washington State Department of Health, First Floor Conference Room, 1102 S.E. Quince Street, Olympia, WA 98504, on June 2, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Michelle Davis by May 23, 1997, TDD (800) 833-6388.

Submit Written Comments to: Michelle Davis, Department of Health, 1112 Quince Street, Mailstop 7890, Olympia, WA 98504-7890, FAX (360) 586-0342, by May 29, 1997.

Date of Intended Adoption: June 3, 1997.

April 22, 1997  
Bruce A. Miyahara  
Secretary

AMENDATORY SECTION (Amending WSR 95-20-080, filed 10/4/95, effective 11/4/95)

**WAC 246-08-400 ((Searching and duplicating medical records-)) How much can a medical provider charge for searching and duplicating medical records? ((Effective July 1, 1995, through June 30, 1997, the "reasonable fee" defined in RCW 70.02.010(12) for duplicating or searching a record shall not exceed sixty nine cents per page for the first thirty pages and fifty three cents for all other pages. In addition, a clerical fee for searching and handling**

~~may be charged not to exceed sixteen dollars. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.)) RCW 70.02.010(12) allows medical providers to charge fees for searching and duplicating medical records. The fees a provider may charge cannot exceed the fees listed below:~~

(1) Copying charge per page:

(a) No more than seventy-four cents per page for the first thirty pages;

(b) No more than fifty-seven cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge a seventeen dollar clerical fee for searching and handling records;

(b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) This section is effective July 1, 1997, through June 30, 1999.

**WSR 97-09-094  
PROPOSED RULES  
OFFICE OF MINORITY AND  
WOMEN'S BUSINESS ENTERPRISES**

[Filed April 23, 1997, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 96-23-002.

Title of Rule: WAC 326-02-034 Political subdivision fees.

Purpose: To establish an equitable and practical procedure for distributing the costs of the state's certification program among the political subdivisions.

Statutory Authority for Adoption: RCW 39.19.030(7).

Statute Being Implemented: RCW 39.19.220.

Summary: Since 1993, the Office of Minority and Women's Business Enterprises is a revolving fund agency dependent upon user fees for its budget.

Reasons Supporting Proposal: The legislature intended that all beneficiaries of the certification program contribute to its costs. This rule governs that portion allocated to the political subdivisions of the state.

Name of Agency Personnel Responsible for Drafting: Juan Huey-Ray, 406 South Water, Olympia, WA 98504, (360) 586-1228; Implementation: Clarence Gillis, 406 South Water, Olympia, WA 98504, (360) 586-6767; and Enforcement: James A. Medina, 406 South Water, Olympia, WA 98504, (360) 586-9679.

Name of Proponent: Office of Minority and Women's Business Enterprises, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule governs the process for determining which political subdivisions will be assessed and how much. It is intended to equitably spread a portion of the state's costs (related to the certification of minority and women's busi-

ness enterprises) among the public entities that benefit from the program.

Proposal Changes the Following Existing Rules: This amendment establishes classes of political subdivisions and establishes a new formula for accessing each subdivision based on its classification.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Exempt because a nongovernment party cannot violate it, RCW 34.05.310 (4)(b).

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Exempt by subsection (5)(b)(ii) of section 201, chapter 403, Laws of 1995, because the rule applies to internal governmental operations.

Hearing Location: Office of Minority and Women's Business Enterprises, 406 South Water, Olympia, WA 98504, on July 22, 1997, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Tammi Hazlitt by July 15, 1997, (360) 753-9691.

Submit Written Comments to: Juan Huey-Ray, Rules Coordinator, FAX (360) 586-1228, by July 15, 1997.

Date of Intended Adoption: July 23, 1997.

April 23, 1997  
Clarence Gillis  
Deputy Director

AMENDATORY SECTION (Amending WSR 94-11-113, filed 5/18/94, effective 6/18/94)

**WAC 326-02-034 Political subdivision fees.** (1) It is the intent of the state legislature that political subdivisions within the state of Washington contribute to the costs of the state's certification program for minority and women's business enterprises. For the purpose of this section, political subdivisions means any city, town, county, special purpose district, public corporation created by the state, municipal corporation, or quasi-municipal corporation within the state of Washington that administers a policy or program, or funds from whatever source, which requires or encourages the use of certified minority, women, or disadvantaged business enterprises.

(2) Effective July 1, 1993, the office shall allocate a portion of its biennial operational costs to political subdivisions (~~(, to be prorated on the relative benefit to each political subdivision)~~). Each political subdivision shall pay a percentage of this allocation (~~(which is equal to its proportionate share calculated pursuant to)~~) based on the formula set forth in subsection (~~(5(a))~~) (3) of this section.

(3) (~~The office shall determine whether a political subdivision is subject to the provisions of this section. Factors that will be considered include:~~

(a) ~~Whether the political subdivision has a policy or program, or administers funds from whatever source, that requires or encourages the use of certified minority, women, or disadvantaged business enterprises;~~

(b) ~~The beginning or effective date of the policy, program, or acceptance of the relevant funds;~~

(c) ~~The political subdivision's most recent biennial construction budget;~~

~~(d) The value of the political subdivision's construction dollars committed over a two-year period as specified by the office to businesses certified by the office; and~~

~~(e) The feasibility and practicality of collecting the amount that would be due.~~

~~(4) Each political subdivision, deemed by the office to be subject to this section on or after July 1, 1993, shall report to the office the total dollars committed to certified businesses in construction (including direct awards, subcontracts, and related suppliers) in calendar years 1991-1992 or its fiscal years ending in 1991 and 1992. For each succeeding biennium, each political subdivision shall report the total dollars committed to certified businesses in construction (including direct awards, subcontracts, and suppliers) during the previous biennium or its fiscal years ending in the previous biennium.~~

~~(5))~~ The fee charged to each political subdivision for the period, July 1, ((1993)) 1997 - June 30, ((1995)) 1999, and subsequent bienniums unless revised by rule, will be calculated as follows:

(a)(i) Cities with populations up to one thousand five hundred will not be charged.

(ii) Cities with populations of one thousand five hundred to twenty-five thousand will be charged one hundred dollars each.

(iii) Cities with populations of twenty-five thousand to fifty thousand will be charged two hundred dollars each.

(iv) Cities with populations over fifty thousand will be charged based on the formula set forth in subsection (4) of this section.

(b)(i) Counties with populations up to ten thousand will not be charged.

(ii) Counties with populations of ten thousand to one hundred thousand will be charged one hundred dollars each.

(iii) Counties with populations of one hundred thousand to five hundred thousand will be charged two hundred dollars each.

(iv) Counties with populations over five hundred thousand will be charged based on the formula set forth in subsection (4) of this section.

(c)(i) Ports with revenues up to two million dollars will not be charged.

(ii) Ports with revenues of two million dollars to ten million dollars will be charged two hundred dollars each.

(iii) Ports with revenues over ten million dollars will be charged based on the formula set forth in subsection (4) of this section.

(d)(i) Educational service districts and public school districts with enrollments up to one thousand will not be charged.

(ii) Educational service districts and public school districts with enrollments of one thousand to ten thousand will be charged one hundred dollars each.

(iii) Educational service districts and public school districts with enrollments of ten thousand to twenty thousand will be charged two hundred dollars each.

(iv) Educational service districts and public school districts with enrollments over twenty thousand will be charged based on the formula set forth in subsection (4) of this section.

(e)(i) Transit authorities with capital expenditures less than one hundred thousand dollars will not be charged.

(ii) Transit authorities with capital expenditures of one hundred thousand dollars to one million dollars will be charged one hundred dollars each.

(iii) Transit authorities with capital expenditures of one million dollars to ten million dollars will be charged two hundred dollars each.

(iv) Transit authorities with capital expenditures greater than ten million dollars will be charged based on the formula set forth in subsection (4) of this section.

(4) Each political subdivision not subject to a fixed fee under subsection (3) of this section shall report to the office the total dollars committed to certified businesses in construction (including direct awards, subcontracts, and related suppliers) during the previous biennium or its fiscal years ending in the previous biennium.

(a) The construction dollar commitment of each political subdivision will be divided by the sum of those commitments reported to calculate its proportionate share of the net allocation. The net allocation is the amount remaining after deduction of the amounts charged under subsection (3) of this section from the total allocated to all political subdivisions.

(b) The ~~((proportionate share))~~ percentage ~~((of))~~ calculated for each reporting political subdivision will be applied to the total due from all political subdivisions required to report to determine their respective fees ~~((-~~

~~((6))~~ The fee for a political subdivision that fails to report as required will be determined as follows:

~~((a))~~ Provided, That where a political subdivision required by this section to report fails to do so, the net allocation will be further reduced by an amount calculated as follows:

(i) The number of political subdivisions reporting will be divided by the total number of political subdivisions required to report at that time.

~~((b))~~ (ii) The resulting percentage will be used to calculate the ~~((amount of the total))~~ portion of the net allocation due from the political subdivisions which is to be apportioned among those who ~~((report))~~ reported. The balance of the ~~((total))~~ net allocation will be charged equally among those who fail to report.

~~((7))~~ (5) After the initial billing, which will include the total amount ~~((s))~~ due for the ~~((number of full quarters))~~ biennium beginning July 1, ~~((1993))~~ 1997, the office will mail invoices on a quarterly basis one month before the start of each quarter for the outstanding balance at that time. Payments shall be due within thirty calendar days after receipt of the invoice.

~~((8))~~ As the number of reporting political subdivisions changes, the amounts due from each for the remaining quarters in a biennium will be recalculated.

Preproposal statement of inquiry was filed as WSR 97-05-067.

Title of Rule: Chapter 16-532 WAC.

Purpose: Amend chapter 16-532 WAC to change the assessment and collection procedures of the Hop Board and add new hop varieties subject to labeling requirements.

Statutory Authority for Adoption: RCW 15.65.050.

Statute Being Implemented: Chapter 15.65 RCW.

Summary: The rule (1) adds a definition for "processed" hops to the marketing order; (2) requires a person subject to assessments to pay assessments from the date of processing when hops are processed prior to the first sale and submit an inventory report to the board on hops which are not processed or sold prior to December 31 of the year in which they are produced; and (3) adds six new commercial varieties of hops to the labeling requirements.

Reasons Supporting Proposal: (1) The Hop Board has the fiduciary responsibility to prepare budgets covering anticipated income and expenses and conduct advertising and research programs that benefit hop growers. Changes in hop processing technology and marketing channels have made assessment collection methods and budgeting less effective. (2) New varieties of hops have been released for commercial use.

Name of Agency Personnel Responsible for Drafting: Walter Swenson, Washington State Department of Agriculture, 1111 Washington Street, Olympia, WA, (360) 902-1928; Implementation and Enforcement: Ann George, Hop Commission, 504 North Naches Avenue, Yakima, WA, (509) 453-4749.

Name of Proponent: Washington Hop Commission, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Affected producers must approve the rule in compliance with RCW 15.65.160, which requires a referendum of the growers, before the rule becomes effective.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule adds a definition for "processed" hops to the marketing order to conform with technological changes in the industry. The rule will also require a person subject to assessments to pay assessments to the board from the date of processing if hops are processed prior to the first sale and requires the producer to report to the board any hops produced that year that were not sold or processed by December 31. The rule will provide the Hop Board with a more accurate projection of anticipated income to budget for research and promotion programs that will benefit the hop growers. The new varieties added to the labeling requirement of the board will give growers additional marketing opportunities for Washington grown hops.

Proposal Changes the Following Existing Rules: The proposal will add the definition of "processed" to the marketing order and change the assessment and reporting requirements for some producers subject to assessments. The assessment due date for producers that process hops prior to sale will be from the date of processing rather than from the date of sale. Growers with unsold or unprocessed hops on December 31 of the year produced will now be

WSR 97-09-095  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE

[Filed April 23, 1997, 10:58 a.m.]

Original Notice.

PROPOSED

required to report the inventory of unsold or unprocessed hops to the board by January 31 of the following year. Adding the new commercial varieties of hops to the marketing order will increase the number of varieties subject to labeling requirements from twenty-six to thirty-two.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There will be minimal cost to businesses for compliance with the rule change. The new inventory reporting requirement is a minor administrative requirement that will affect only a small percentage of the ninety-four affected producers that grow and sell hops. A majority of the growers sell or process their hops during the year they are produced.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Washington Department of Agriculture is not a listed agency under section 201.

Hearing Location: Washington State University, WSU - IAREC, 24106 North Bunn Road, Prosser, WA, on June 10, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by June 3, 1997, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Walter Swenson, P.O. Box 42560, Olympia, WA 98504-2560, FAX (360) 902-2089, by June 10, 1997.

Date of Intended Adoption: August 20, 1997.

April 23, 1997

William E. Brookreson  
Assistant Director  
Agency Operations

**AMENDATORY SECTION** (Amending WSR 96-15-139, filed 7/24/96, effective 8/24/96)

**WAC 16-532-010 Definitions.** For the purpose of this marketing order:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

(4) "Person" means any person, firm, association or corporation.

(5) "Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.

(6) "Commercial quantity" means any hops produced for market by a producer in any calendar year.

(7) "Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by him.

(8) "Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.

(9) "Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.

(10) "Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other

forms, including hops which are frozen in undried form, but excluding whole, dried hop cones, whether loose or baled.

~~((11))~~ (11) "Marketing season" means the twelve month period beginning with January 1 of any year and ending December 31, both dates being inclusive.

~~((12))~~ (12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which he produces and a handler with respect to the hops which he handles, including those produced by himself.

~~((13))~~ (13) "Affected area" means the state of Washington.

~~((14))~~ (14) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

~~((15))~~ (15) "Affected unit" means two hundred pounds net of hops, or the amount of lupulin, extract or oil produced from two hundred pounds net of hops.

~~((16))~~ (16) "Promotional hosting" as used in these rules means the hosting of individuals and groups of individuals at meetings, meals, and gatherings for the purpose of cultivating trade relations and promoting sales of Washington grown hops.

~~((17))~~ (17) "Hosting" may include providing meals, refreshments, lodging, transportation, gifts of nominal value, reasonable and customary entertainment, and normal incidental expenses at meetings or gatherings.

~~((18))~~ (18) "Affiliate" as used in these rules, means a corporation, limited liability company, partnership, or other entity in common ownership with a producer or producer-handler.

**AMENDATORY SECTION** (Amending Order 5077, filed 8/23/95, effective 9/23/95)

**WAC 16-532-040 Assessments and collections.** (1) **Assessments.**

(a) The annual assessment on all varieties of hops shall be two dollars and fifty cents per affected unit.

(b) For the purpose of collecting assessments the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(iii) Require the person subject to the assessment to remit assessments for any hops which are processed prior to the first sale; or

(iv) Require the person subject to the assessment to remit an inventory report for any hops which are not processed or sold prior to December 31 of the year in which they are produced.

(c) Subsequent to the first sale or processing, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending WSR 92-09-068, filed 4/14/92, effective 5/15/92)

**WAC 16-532-110 Requirements for collection of assessments.** (1) Assessments on all hops marketed or processed shall be paid at the rate specified in WAC 16-532-040 to the hop commodity board (commission) by the first handler receiving or handling such hops for or from a producer, or by the producer if processing occurs before the first sale. Such assessments shall be deducted from the payment to be made by such handler to the producer.

(2) Payment of such assessment shall be due and payable on the tenth day of the second calendar month following the receiving or delivery to said first handler or the assumption of control of a producer's hops, or following the date of processing, if processed prior to the first sale, by said first handler or producer.

(3) An inventory report on all hops which are not marketed or processed prior to December 31 of the year in which those hops are produced shall be submitted by the producer no later than January 31 of the following year.

(4) Any handler or producer failing to pay on or before the due date set forth for payment in this regulation, shall add ten percent to the total amount due as a cost for collection as prescribed in RCW 15.65.440.

AMENDATORY SECTION (Amending Order 5077, filed 8/23/95, effective 9/23/95)

**WAC 16-532-120 Labeling.** (1) Each lot of hops must be identified by the crop year produced, grower number and lot designation, and variety stenciled on each bale.

(a) A three-digit grower number will be assigned by the Washington hop commodity board (commission) prior to the annual harvest.

(b) The first marking will consist of the last digit of the crop year, the letter "G" and a hyphen, followed by the three-digit grower number and lot designation (example: 8G-000-01).

(c) The first marking shall be affixed on the head or top of the bale and shall be in characters approximately two inches high.

(d) The second marking will consist of the hop variety, utilizing the following abbreviations:

AQ - Aquila  
 BA - Banner  
 BG - Brewer's Gold  
 CA - Cascade  
 CN - Centennial  
CE - Chelan  
 CH - Chinook  
 CL - Cluster  
CS - Columbus  
 CR - Crystal  
 ER - Eroica  
 EX - Experimental  
 FU - Fuggle  
 GA - Galena  
GO - Golding  
 HA - Hallertauer  
 HE - Hersbrucker  
 LI - Liberty  
MG - Magnum  
 MH - Mt. Hood  
 NB - Northern Brewer  
 NU - Nugget  
 OL - Olympic  
 OT - Other  
 SA - Saaz  
 SP - Spalter  
SY - Symphony  
 PE - Perle  
 TE - Tettnanger  
 UL - Ultra  
VA - Vanguard  
 WI - Willamette

(e) The second marking shall be affixed immediately below the first marking on the head or top of the bale, and shall be in characters approximately two inches high.

(2) In addition to any other brands, labels, stencils or other marks customarily used by hop handlers to identify their own trademarks, labels or firm names, all baled hops shall be branded, labeled, stenciled or marked with one distinctive identifying marking, defined or designated by the hop commodity board (commission), which shall identify the hops as having been grown in the state of Washington.

(a) This mark or identification shall be stenciled in letters at least one inch in height and shall read: "WASHINGTON," or "GROWN IN WASHINGTON," as prescribed by the hop commodity board (commission).

(b) This mark or identification shall be affixed in a suitable position on the head or top of the bale, in the area generally used by the federal/state inspectors to stencil their own identification mark and in the same general area where the grower's "G" number and variety identification are applied.

(c) At no time shall the said identification marking appear on the face or sides of the bales, as these areas are considered to be for the use of the dealer or handler for trademarks, shipping markings, bale numbers, firm insignias, etc.

(d) The approved identification marking shall be affixed by the federal/state inspector prior to the drawing of samples for federal/state inspection, and, no hops may be sampled for this purpose unless said markings have been affixed thereto in compliance with the regulations prescribed by the hop commodity board (commission).

(e) Handlers who offer hops for sale in foreign countries where only shipping markings are permitted on the bales or containers, may apply to the hop commodity board (commission) for permission to blot out or remove the identifying marking.

**WSR 97-09-096**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
**(Fisheries)**

[Filed April 23, 1997, 11:05 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-06-128.

Title of Rule: Commercial fishing rules.

Purpose: Propose methods to ensure survival of nontargeted salmon. Provide accounting mechanism.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Nontargeted salmon can be released from purse seine gear with a high likelihood of survival. A method ensuring such fish do survive, as well as accounting of the incidental catch, will conserve salmon stocks of concern.

Reasons Supporting Proposal: Purse seine fishing in a mixed stock fishery can be allowed if there is survival of nontargeted stocks. Increased fishing opportunity and conservation of salmon warrant imposition of methods to determine the degree of incidental catch and a monitoring of survivability of purse seine-caught salmon.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, 902-2325; and Enforcement: Ron Swatfigure, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 220-47-325, limits number of salmon to be handled at one time to reduce mortality. Requires live tank to ensure fish to be released are alive upon release; and WAC 220-47-326, requires observer or observer program to assess degree of interception of nontargeted salmon species.

Proposal does not change existing rules.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

**Small Business Economic Impact Statement**

For Rules To: (1) Minimize the mortality of fish released by Puget Sound salmon purse seine fishers; and (2) assess the survival of fish released by the Puget Sound salmon purse seine fishery.

Description of the Proposed Rules: (1) A provision is proposed to require fishers to more carefully sort their catch and provide a holding tank to allow fish that are to be released to better recover prior to release.

(2) A section is proposed to require that participants in the purse seine fishery carry an on-board observer to record the number and condition of fish which are required by the department to be released from the fishing operations.

Purpose for the Proposed Rules: (1) To minimize mortality of those fish which are required to be released under the provisions of Title 220 WAC, the handling of such fish must be conducted in a manner that minimizes their mortality.

(2) To adequately manage the resource, it is necessary that the Department of Fish and Wildlife assess the impacts on the numbers and condition of fish which are to be released. The numbers of fish which are to be released by the fleet shall be enumerated.

Effect of the Proposed Rules on Small Businesses: These rules will require that Puget Sound purse seine salmon fishers shall take steps to increase survival of released salmon. Fishers will be required to acquire or manufacture a holding tank for fish to be released from the fishing operation. Fishing operations will be altered (slowed) to more efficiently sort fish which must be released from those that may be retained.

The requirement to carry an on-board observer will necessitate increasing the vessel owner's insurance liability coverage to cover the additional person. A waiver of this requirement would be that the purse seine fishing industry cooperate in developing and funding a scientifically valid study of the numbers and encounters of released fish in the Puget Sound salmon fishery, and if all fishers maintain and submit a log book in which they record the number and condition of fish released during their operations.

Small Business Economic Impact Statement:

I. Industry (SIC code) Affected by These Proposed Rules: 0912, Finfish Fisheries.

II. Number of Businesses in That Industry: Only three hundred forty-nine businesses filed taxes with the Washington State Department of Revenue from this SIC code in 1995, the most recent year for which data are available. This contrasts with approximately 3,756 Washington state licenses sold to commercial harvesters of finfish in 1995. A

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total of two hundred ninety-two Puget Sound salmon purse seine licenses were sold in 1996.

III. Number of Employees in That Industry: Unknown'.

IV. Number of Small Businesses in That Industry: Unknown'.

V. Number of Businesses in That Industry That are Affected by These Proposed Rules: Puget Sound gillnets make up 25.7% of the 1995 finfish licenses and 26.6% of the 1996 finfish licenses. Puget Sound purse seines make up 7.9% of the 1995 finfish licenses and 8.8% of the 1996 finfish licenses. Numbers of licenses in this business category are shown in the table below:

Washington Department of  
Fish and Wildlife License Statistics

License	1995	1996
Puget Sound gillnet licenses	966	884
Puget Sound purse seine licenses	297	292
All other finfish licenses	2,493	2,141
Total Finfish Licenses	3,756	3,317

The number of Puget Sound purse seine fishers represents less than 10% of the businesses in this SIC'.

Description of Reporting, Recordkeeping, and Other Compliance Measures Required by the Proposal: Compliance with the proposed rules potentially includes reduced fishing time (and, therefore, reduced catch) and gear modifications. If businesses in the affected area do not already own equipment conforming to the proposed new rules, then compliance with the rules will require modification of existing gear. There are also reporting or record-keeping requirements incorporated into this proposal.

VI. Costs of Compliance: Professional Services Required for Compliance: An industry-financed observer program to monitor all purse seine salmon fisheries would include costs of observers, lead observers, data analysis, and overhead costs during the August-November period. If two hundred fifty vessels participate in the scheduled Puget Sound salmon fisheries, and 30% of the fleet effort is monitored, forty-five observers may need to be hired. "Total cost to the vessel not counting P&I insurance would be \$20.58 per hour for the observer position or about \$250 per day for a 12 hour day and \$36.38 per hour or about \$435 per day for a lead observer coordinating activities aboard all the vessels. We charge \$85 per hour for program coordination and analysis of the data collected." (J. June, Natural Resources Consultants, Inc., pers. comm 4-23-97)

The cost to management agencies of monitoring the fourteen-day 1994 gillnet sockeye fishery to statistically determine the fishery impacts to sea bird and marine mammals by five hundred gillnet vessels was approximately \$650,000. As two hundred ninety-two purse seine vessels are licensed to fish for salmon in Washington state, about \$380,000 may be estimated for the cost of a complete purse seine fishery observer program in the sockeye fishery and an additional like amount during the Puget Sound salmon chum-directed fisheries.

Costs of a trained observer aboard one vessel for one day twelve-hour day are approximately \$202 (J. June,

Natural Resources Consultants, Inc., personal communication 4-23-97). Currently scheduled are twenty-five separate days of purse seine openings in the main Puget Sound chum fisheries. The sockeye fishery may be scheduled for about eight purse seine openings, based on the schedule allowed during the 1993 fishery which was the brood year for the 1997 sockeye return. Therefore, thirty-three fishing days may be expected to be fished by the majority of the fleet. A total \$6,685 might be expected to be spent on observer wages and benefits by each vessel participating in the fishery.

Costs of Compliance, Including Costs of Equipment, Supplies, and Labor, and Loss of Sales or Revenue: (1) Cost of live-tanks is approximately \$300, if a standard industry fish tote is used. Costs of circulating water through the tank using a deck hose are minimal.

Loss of revenue caused by the slowing of the fishing operation is potentially up to one-third of the seiners' fishing time, depending on the quantity of fish caught in any given set. Purse seine catch on the 1993 cycle, which was the brood year for the 1997 sockeye and chum runs, was 1.3 million sockeye, 972,000 pink and 588,000 chum salmon for an ex-vessel value of \$10.6 million. A reduction of 1/3 of the fishers' time could equate to an overall cost to the seine fleet of \$3.5 million, an average of about \$12,000 for each purse seine salmon license holder.

If additional time on the water was to be afforded the fleet to make up for the loss in fishing efficiency, additional costs would be incurred for each extra day needed to operate. Costs include the use of about two hundred fifty gallons of fuel per day, labor costs, equipment and similar operating costs, at approximately \$1,300 per day (Scott Enquist, Seattle Marine Supply, pers. comm. 4-23-97). If 1/3 more time were required to catch the nontreaty sockeye, pink and chum salmon net share, an additional ten days would be required, for an average cost of \$13,000 per vessel.

(2) P&I insurance required to cover liability requirements for an on-board observer are approximately \$125 per month per vessel for a four-month fishing season (August-November), for a total \$625.

Individual observer costs for the vessel would be about \$250 per day for a twelve-hour day. If thirty-three days are fished, each vessel would be required to spend \$8,250 on observer wages and benefits.

VII. Comparison of Costs for Small Businesses Against the Cost to the Largest 10% of Businesses Within the Industry Required to Comply with the Proposed Rule: Neither costs per employee, costs per hour of labor, nor costs per \$100 of sale are different between small businesses and the largest 10% of businesses affected.

VIII. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses: (2) A consideration to use trained volunteer labor by the purse seine industry or individual fishers, rather than professional biologists, will provide for reduced costs of any on-board observer program.

IX. Description of How the Agency has Involved Small Businesses in the Development of the Rule: A letter from the Purse Seine Vessel Owners Association was requested but not received by the department, to describe the methods the industry would use to minimize and reduce mortality of salmon released during the fishery. Small business owners

will be able to testify on these proposals at a public hearing to be held May 30, 1997. Small businesses were not involved in the direct development of the rule.

<sup>1</sup> Pers. Comm. M. Knudsen, Wa. State Dept. Revenue, 4/18/97

<sup>2</sup> "Facilitating Regulatory Fairness." Washington State Department of Community, Trade and Economic Development, Washington State Business Assistance Center, January 1995, appendix A.

A copy of the statement may be obtained by writing to Evan Jacoby, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-2930, or FAX (360) 902-2942.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Holiday Inn Select, 2300 Evergreen Park Drive, Olympia, on May 30, 1997, at 4:00 p.m.

Assistance for Persons with Disabilities: Contact Robin Ayers by May 15, 1997, TDD (360) 902-2207, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Washington Department of Fish and Wildlife, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501, FAX (360) 902-2942, by May 25, 1997.

Date of Intended Adoption: May 30, 1997.

April 23, 1997  
Evan Jacoby  
Rules Coordinator

NEW SECTION

**WAC 220-47-325 Purse seine — Release of incidentally-caught fish.** To minimize mortality of those fish which are required by Title 220 WAC to be released, handling of such fish must be conducted in a manner that minimizes their mortality.

(1) Fishing operations shall be conducted such that no more than 100 salmon may be brought aboard the primary vessel at one time

(2) Fish which are required to be released by Title 220 WAC shall be immediately placed into a live-tank measuring at least 36 inches in depth, 36 inches in width and 36 inches in length, and held for a minimum of one hour before release. Fresh sea water shall be caused to circulate through the tank while fish are being held within.

NEW SECTION

**WAC 220-47-326 Puget Sound commercial salmon — Assessment of impacts on released fish.** To adequately manage the resource, it is necessary that the department assess the impacts on fish which are required to be released by Title 220 WAC. The numbers of fish which are released by the fleet shall be enumerated.

(1) To participate in the purse seine openings listed in Chapter 220-47 WAC, each purse seine fisher shall carry on board an observer, approved by the department, to record the numbers and condition of those fish caught which are required to be released by Title 220 WAC.

(2) The provisions of paragraph (1) may be waived by the department if:

(a) The industry provides a statistically valid sample of fish encountered using an on-board observer program; and

(b) Each purse seine fisher maintains a log book provided by the department, records the numbers of fish which are required to be released, and specifies the condition of each fish upon release. This completed log book shall be returned to the department by December 31st of each year.

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 97-09-097**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)  
[Filed April 23, 1997, 11:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-129.

Title of Rule: Commercial fishing rules.

Purpose: Amend coastal harbor salmon net seasons.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Proposes options for 1997 salmon seasons in Grays Harbor and Willapa Bay.

Reasons Supporting Proposal: A harvestable surplus of salmon will be returning to the coastal harbors. Rules are needed to ensure conservation of brood stock while affording harvest opportunity.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, 902-2325; and Enforcement: Ron Swatfigure, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Sets seasons for gill net fishery in Grays Harbor and Willapa Bay.

Proposal Changes the Following Existing Rules: Amends existing season rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Seasonal restrictions are under guidelines set by the Pacific Fisheries Management Council, and are not subject to state regulatory change without federal agreement. The only variables are proposed dates of harvest, and no mitigation is possible because all Washington salmon fisheries are under limited entry. There are no compliance measures required, no costs of compliance, and any revenue loss is directly a consequence of the abundance of salmon, or lack thereof. There is no differential between similarly situated licensees. Industry has been fully involved in the federal recommendation process.

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Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Holiday Inn Select, 2300 Evergreen Park Drive, Olympia, on May 30, 1997, at 4:00 p.m.

Assistance for Persons with Disabilities: Contact Robin Ayers by May 15, 1997 [1997], TDD (360) 902-2207, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Washington Department of Fish and Wildlife, Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501, FAX (360) 902-2942, by May 25, 1997.

Date of Intended Adoption: May 30, 1997.

April 23, 1997

Evan Jacoby

Rules Coordinator

AMENDATORY SECTION (Amending Order 96-77, filed 6/11/96, effective 7/12/96)

**WAC 220-36-021 Salmon—Grays Harbor—Summer fishery.** From July 5 through August 15 of ~~((1996))~~ 1997, it is unlawful to fish for salmon in Grays Harbor for commercial purposes or to possess salmon taken from those waters for commercial purposes.

AMENDATORY SECTION (Amending Order 96-77, filed 6/11/96, effective 7/12/96)

**WAC 220-36-023 Grays Harbor salmon—Fall fishery.** From August 16 through December 31 of each year, it is unlawful to fish for salmon in Grays Harbor for commercial purposes, except that:

#### Fishing period

(1) Gill net gear may be used to fish for salmon from 6:00 ~~((a.m.))~~ p.m. September 2 to 6:00 p.m. ~~((each day))~~ September ~~((16 through))~~ 4, and 6:00 p.m. September ~~((20))~~ 9 to 6:00 p.m. September ~~((23 through September 27, and September 30, 1996))~~ 11, 1997, in SMCRA 2C.

#### Option 1

(2) Gill net gear may be used to fish for salmon from 6:00 p.m. September 2 to 6:00 p.m. September 4, 1997, in SMCRA 2D.

(3) Gill net gear shall be used as provided for in WAC 220-36-015, except that it shall not contain mesh smaller than 8 inches.

#### Option 2

(2) Gill net gear may be used to fish for salmon from 6:00 p.m. September 2 to 6:00 p.m. September 4, and 6:00 p.m. September 9 to 6:00 p.m. September 11, 1997, in SMCRA 2D.

(3) Gill net gear shall be used as provided for in WAC 220-36-015, except that it shall not contain mesh smaller than 8 inches.

#### Option 3 (no SMCRA 2D fishery)

(2) Gill net gear shall be used as provided for in WAC 220-36-015, except that it shall not contain mesh smaller than 8 inches.

**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 96-77, filed 6/11/96, effective 7/12/96)

**WAC 220-40-021 Willapa Bay salmon—Summer fishery.** From July 5 through August 15 of ~~((1996))~~ 1997, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes.

AMENDATORY SECTION (Amending Order 96-77, filed 6/11/96, effective 7/12/96)

**WAC 220-40-027 Salmon—Willapa Bay fall fishery.** From 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 period

(1) Gill net gear may be used to fish for salmon from:

#### Option 1

(a) 6:00 p.m. August ~~((19))~~ 18 to 6:00 p.m. August ~~((20))~~ 19, 6:00 p.m. August ~~((22))~~ 21 to 6:00 p.m. August ~~((23))~~ 22, 6:00 p.m. August ~~((28))~~ 27 to 6:00 p.m. August ~~((29))~~ 28, 6:00 p.m. September ~~((4))~~ 2 to 6:00 p.m. September ~~((5))~~ 4 and 6:00 p.m. September ~~((14))~~ 9 to 6:00 p.m. September ~~((12))~~ 11, ~~((1996))~~ 1997, in SMCRA 2J, 2K, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12, and that portion of SMCRA 2H west of Willapa Channel Marker 35;

(b) 6:00 p.m. September ~~((19))~~ 16 to 6:00 p.m. October ~~((14))~~ 4, ~~((1996))~~ 1997, in SMCRA 2H, 2M ~~((and))~~ that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12 and that part of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2);

(c) 6:00 p.m. September ~~((19))~~ 18 to 6:00 p.m. September ~~((20))~~ 19, 6:00 p.m. September ~~((24))~~ 22 to 6:00 p.m. September ~~((25))~~ 23, 6:00 p.m. September ~~((26))~~ 25 to 6:00 p.m. September ~~((27))~~ 26, 6:00 p.m. ~~((October 1))~~ September 29 to 6:00 p.m. ~~((October 2))~~ September 30, ~~((6:00 p.m. October 3 to 6:00 p.m. October 4, 6:00 p.m. October 8 to 6:00 p.m. October 9,))~~ and 6:00 p.m. October ~~((10))~~ 2 to 6:00 p.m. October ~~((11))~~ 3, ~~((1996))~~ 1997, in SMCRA 2K, and that part of SMCRA 2J south of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2).

#### Option 2

(a) 6:00 p.m. August ~~((19))~~ 18 to 6:00 p.m. August ~~((20))~~ 19, 6:00 p.m. August ~~((22))~~ 21 to 6:00 p.m. August ~~((23))~~ 22, 6:00 p.m. August ~~((28))~~ 27 to 6:00 p.m. August ~~((29))~~ 28, 6:00 p.m. September ~~((4))~~ 2 to 6:00 p.m. September ~~((5))~~ 4 and 6:00 p.m. September ~~((14))~~ 9 to 6:00 p.m. September ~~((12))~~ 11, ~~((1996))~~ 1997, in SMCRA ~~((2J, 2K,))~~ 2M ~~((and))~~ that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12, ~~((and))~~ that portion of SMCRA 2H west of Willapa Channel Marker 35, and that portion of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta Boat basin (red flasher no. 2);

(b) 6:00 p.m. September ~~((19))~~ 16 to 6:00 p.m. October ~~((14))~~ 4, ~~((1996))~~ 1997, in SMCRA 2H, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12 ~~((and that part of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2)))~~;

(c) 6:00 p.m. September ~~((19))~~ 18 to 6:00 p.m. September ~~((20))~~ 19, 6:00 p.m. September ~~((24))~~ 22 to 6:00 p.m. September ~~((25))~~ 23, 6:00 p.m. September ~~((26))~~ 25 to 6:00 p.m. September ~~((27))~~ 26, 6:00 p.m. ~~((October 1))~~ September 29 to 6:00 p.m. ~~((October 2))~~ September 30, ~~((6:00 p.m. October 3 to 6:00 p.m. October 4, 6:00 p.m. October 8 to 6:00 p.m. October 9,))~~ and 6:00 p.m. October ~~((10))~~ 2 to 6:00 p.m. October ~~((11))~~ 3, ~~((1996))~~ 1997, in SMCRA ~~((2K, and that part of SMCRA))~~ 2J ~~((south))~~ north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2).

### Option 3

(a) 6:00 p.m. August ~~((19))~~ 18 to 6:00 p.m. August ~~((20))~~ 19, 6:00 p.m. August ~~((22))~~ 21 to 6:00 p.m. August ~~((23))~~ 22, 6:00 p.m. August ~~((28))~~ 27 to 6:00 p.m. August ~~((29))~~ 28, 6:00 p.m. September ~~((4))~~ 2 to 6:00 p.m. September ~~((5))~~ 4 and 6:00 p.m. September ~~((11))~~ 9 to 6:00 p.m. September ~~((12))~~ 11, ~~((1996))~~ 1997, in SMCRA ~~((2J, 2K,))~~ 2M ~~((and))~~, that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12, and that portion of SMCRA 2H west of Willapa Channel Marker 35;

(b) 6:00 p.m. September ~~((19))~~ 16 to 6:00 p.m. October ~~((14))~~ 4, ~~((1996))~~ 1997, in SMCRA 2H, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12 ~~((and that part of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2)))~~;

~~((c))~~ 6:00 p.m. September 19 to 6:00 p.m. September 20, 6:00 p.m. September 24 to 6:00 p.m. September 25, 6:00 p.m. September 26 to 6:00 p.m. September 27, 6:00 p.m. October 1 to 6:00 p.m. October 2, 6:00 p.m. October 3 to 6:00 p.m. October 4, 6:00 p.m. October 8 to 6:00 p.m. October 9, and 6:00 p.m. October 10 to 6:00 p.m. October 11, 1996, in SMCRA 2K, and that part of SMCRA 2J south of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2)).

(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 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 shall be used as provided in WAC 220-40-015 except that before 6:00 p.m. September ~~((20))~~ 17, the maximum mesh size is 8-1/2 inches.

(a) 6:00 p.m. August 19 to 6:00 p.m. August 20, 6:00 p.m. August 22 to 6:00 p.m. August 23, 6:00 p.m. August 28 to 6:00 p.m. August 29, 6:00 p.m. September 4 to 6:00 p.m. September 5 and 6:00 p.m. September 11 to 6:00 p.m. September 12, 1996, in SMCRA 2J, 2K, 2M and that portion of SMCRA 2G east of a line drawn true north-south through

Willapa Channel Entrance Buoy 12, and that portion of SMCRA 2H west of Willapa Channel Marker 35;

(b) 6:00 p.m. September 19 to 6:00 p.m. October 14, 1996, in SMCRA 2H, 2M and that portion of SMCRA 2G east of a line drawn true north-south through Willapa Channel Entrance Buoy 12 and that part of SMCRA 2J north of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2);

(c) 6:00 p.m. September 19 to 6:00 p.m. September 20, 6:00 p.m. September 24 to 6:00 p.m. September 25, 6:00 p.m. September 26 to 6:00 p.m. September 27, 6:00 p.m. October 1 to 6:00 p.m. October 2, 6:00 p.m. October 3 to 6:00 p.m. October 4, 6:00 p.m. October 8 to 6:00 p.m. October 9, and 6:00 p.m. October 10 to 6:00 p.m. October 11, 1996, in SMCRA 2K, and that part of SMCRA 2J south of an east-west line through the north entrance marker to the Nahcotta basin (red flasher no. 2).

**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 97-09-099**  
**PROPOSED RULES**  
**SECRETARY OF STATE**  
[Filed April 23, 1997, 11:13 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-091.

Title of Rule: Exemption of transmittal of signature cards to the Secretary of State.

Purpose: To allow county auditors to be exempted from submitting voter registration signature cards if certain requirements are met.

Statutory Authority for Adoption: RCW 29.04.080 and 29.07.120.

Statute Being Implemented: RCW 29.07.120.

Summary: This proposed WAC will, through interlocal agreement, exempt county auditors from transmitting signature cards and voter registration updates to the Secretary of State.

Reasons Supporting Proposal: Exempting the transmittal of signature cards is a cost saving measure for both county auditors and the state. Providing electronic access to signatures will make the initiative process more efficient.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brian Mohoric, 1007 South Washington, Olympia, (360) 664-3442.

Name of Proponent: Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule will allow the Secretary of State and consenting county auditors to enter into interlocal agreement allowing the Secretary of State electronic access to voter

registration signatures. In exchange, county auditors will be exempted from transmitting signature cards to the Secretary of State. Anticipated effect is more efficient use of government resources at the county level and the state level.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Intergovernmental rule only.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Intergovernmental rule only RCW 34.05.328 (5)(b)(ii).

Hearing Location: Secretary of State's Office, Voter Registration Services, 1007 South Washington Street, Olympia, WA 98504, on May 27, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Brian Mohoric, (360) 664-3442 by May 20, 1997.

Submit Written Comments to: FAX (360) 664-2971, by May 20, 1997.

Date of Intended Adoption: June 30, 1997.

April 23, 1997

Donald F. Whiting  
Assistant Secretary of State

## NEW SECTION

**WAC 434-24-065 Exemption of transmittal of signature cards to the secretary of state.** Pursuant to the requirements of RCW 29.07.120, a county auditor shall be exempted from transmitting voter registration cards required by RCW 29.07.090 and 29.10.100, by providing the secretary of state access to electronic voter registration and electronic voter signature information, provided that access to the electronic data shall meet the specifications defined by the secretary of state and agreed to by the county auditor through interlocal agreement. If access to the electronic data is suspended by the county auditor, the county auditor shall provide a complete alphabetical copy of all voter registration records in that county. The records shall contain the voter's name, date of registration, voter registration number, and a facsimile of the voter's signature. The office of the county auditor shall pay for all costs incurred by the secretary of state in reestablishing a voter registration card file system.

### **WSR 97-09-101**

#### **PROPOSED RULES**

#### **OLYMPIC AIR POLLUTION CONTROL AUTHORITY**

[Filed April 23, 1997, 11:20 a.m.]

Original Notice.

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

Title of Rule: Amending OAPCA Regulation 1, Article 8, Solid Fuel Burning Devices, Section 8.09 Curtailment, paragraphs (d), (f) and (g).

Purpose: To amend OAPCA Regulation 1, Section 8.09 to conform with changes to chapter 70.94 RCW imposed by SHB 1053 as passed by the 53rd Legislature in 1995.

Other Identifying Information: Adopting changes to chapter 70.94 RCW in SHB 1053 as approved by the governor, March 3, 1995.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: Amending OAPCA Regulation 1, Section 8.09 to conform with changes to chapter 70.94 RCW under SHB 1053.

Reasons Supporting Proposal: The 53rd Legislature passed and the governor signed SHB 1053 which changed a woodstove curtailment measure.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John T. Kelly, 909 Sleater Kinney Road S.E., #1, 438-8768.

Name of Proponent: Olympia Air Pollution Control Authority (OAPCA), governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amended rule changes a woodstove curtailment (burn ban) measure. The section refers to a contingency measure to be implemented if an area fails to meet federal air quality standards. The purpose of the proposed rule change is to eliminate language which is no longer consistent with state air quality implementation plan.

Proposal Changes the Following Existing Rules: Proposed rule change adopts language in chapter 70.94 RCW into Regulation 1 Section 8.09, and deletes language which was removed by SHB 1053 in regard to curtailments (burn bans). The measure would allow the agency to restrict the use of noncertified woodstoves in the event the area fails to meet federal air quality standards. These are changes to the present language and not new provisions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change is exempt from RCW 19.85.025(2) under RCW 34.05.310 (4)(c) as it adopts without material change provisions of legislative changes to Washington state statute.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The rule is exempt from RCW 34.05.328 (b)(3) as it adopts without material change revisions of Washington state statute.

Hearing Location: OAPCA Board Room, 909 Sleater Kinney Road S.E., Suite #1, Lacey, WA 98503, on June 11, 1997, at 10:15 a.m.

Assistance for Persons with Disabilities: Contact John T. Kelly by June 6, 1997.

Submit Written Comments to: John T. Kelly, Olympic Air Pollution Control Authority, 909 Sleater Kinney Road, Suite [#1], Lacey, WA 98503, FAX (360) 491-6308, by June 10, 1997.

Date of Intended Adoption: June 11, 1997.

April 23, 1997

John T. Kelly  
Air Quality Specialist

## **SECTION 8.09 CURTAILMENT**

(a) Whenever the Authority has declared an Impaired Air Quality Stage 1 for a geographic area a person in a residence or commercial establishment within that geograph-

ical area with an adequate source of heat other than a solid fuel burning device shall not operate any solid fuel burning device, unless the solid fuel burning device is one of the following:

- (1) The solid fuel burning device is certified; or
- (2) A nonaffected pellet stove.

(b) Whenever the Authority has declared an Impaired Air Quality Stage 2 for a geographic area a person in a residence or commercial establishment within that geographical area with an adequate source of heat other than a solid fuel burning device shall not operate any solid fuel burning device.

(c) The affected geographic area of a declared Impaired Air Quality shall be determined by the Control Officer.

(d) For the sole purpose of a contingency measure to meet the requirements of section 172 (c)(9) of the federal clean air act, the use of solid fuel burning devices, except fireplaces as defined in RCW 70.94.453(3), wood stoves meeting the standards set forth in RCW 70.94.457 or pellet stoves either certified or issued an exemption by the EPA in accordance with Title 40, Part 60 of the Code Of Federal Regulations will be prohibited if the EPA, in consultation with Ecology and the Authority, makes written findings that:

(1) The area has failed to make reasonable further progress or attain or maintain a national ambient air quality standard; and

(2) Emissions from solid fuel burning devices from a particular geographic area are a contributing factor to such failure to make reasonable further progress or attain or maintain a national ambient air quality standard.

A prohibition issued under this subsection shall not apply to a person in a residence or commercial establishment that does not have an adequate source of heat without burning wood.

~~If, on or after July 1, 1995, the Thurston County nonattainment area is not in attainment with national ambient air quality standards for particulate matter as specified in Title 40, Section 50.6 of the Code of Federal Regulations, any person in a residence or commercial establishment within the nonattainment areas shall not, at any time, burn solid fuel in any solid fuel burning device, except:~~

- ~~(1) Fireplaces as defined in RCW 70.94.453(3);~~
- ~~(2) certified woodstoves;~~
- ~~(3) nonaffected pellet stoves.~~

(e) The nonattainment area is to consist of all areas within the city limits of Lacey, Olympia, and Tumwater, and unincorporated areas of Thurston County lying within or between the municipal boundaries.

~~(f) Low income exemption;~~

~~(1) A person who demonstrates an economic need to burn solid fuel for residential space heating purposes by qualifying for the low income energy assistance program as administered by the Thurston County Community Action Council is eligible for a written solid fuel burning device special need exemption issued by the Authority.~~

~~(2) Application for a solid fuel burning device special need exemption may be made to the Authority at any time. Exemptions shall be valid for one (1) year and may be renewed provided that the applicant qualifies for the low income energy assistance program at the time of renewal application. Special need exemptions are nontransferable~~

~~and are valid only at the residence location and for the person to whom the exemption is issued. Exemptions shall be issued at no cost to the applicant.~~

~~(g) Impaired Air Quality;~~

~~(1) On or after July 1, 1995, if the Authority has limited the use of solid fuel burning devices in the nonattainment area, a single stage of Impaired Air Quality shall apply in this geographical area and is reached when particulates 10 micron and smaller in diameter are at an ambient level of 90 micrograms per cubic meter of air as measured by a federal reference method specified in Title 40 Part 50, Appendix J of the Code of Federal Regulations or a more timely ambient measurement method accepted and approved by Ecology in accordance with WAC 173-433-140 (4)(a)(ii).~~

~~(2) When a single stage of impaired air is reached, no person in a residence or commercial establishment which has an adequate source of heat without burning wood shall burn wood in any solid fuel burning device.~~

~~(f) (h) A person responsible for an applicable solid fuel burning device already in operation at the time Impaired Air Quality is declared shall withhold new solid fuel for the duration of the Impaired Air Quality. Smoke visible from a chimney, flue, or exhaust duct after three hours has elapsed from the declaration of the Impaired Air Quality shall constitute prima facie evidence of unlawful operation of an applicable solid fuel burning device. This presumption may be refuted by demonstration that the smoke was not caused by a solid fuel burning device.~~

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 97-09-102

### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed April 23, 1997, 11:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 95-07-083.

Title of Rule: National type evaluation program (NTEP).

Purpose: To ensure that weighing and measuring devices used commercially comply with the provisions of National Institute of Standards and Technology (NIST) Handbook 44 which prescribes specifications, tolerances, and other technical requirements for weighing and measuring equipment. NIST Handbook 44 has been adopted as law in Washington state and is also the standard used by every other state.

Statutory Authority for Adoption: Chapter 19.94 RCW.

Statute Being Implemented: RCW 19.94.190 and 19.94.195.

Summary: Adoption of this rule will ensure that prototype weighing and measuring equipment meet Handbook 44 requirements for commercial use and will provide assurance to users, manufacturers and regulatory personnel that the manufactured device type conforms with the

specifications, tolerances and other technical requirements prescribed in Handbook 44.

Reasons Supporting Proposal: (1) Supports statutory guidance of RCW 19.94.190 by eliminating devices that are potentially faulty in construction or that may facilitate fraud; (2) provides regulatory authority to keep Washington from becoming a dumping ground for devices that may not meet Handbook 44 requirements; and (3) allows Washington to join thirty-nine other states who have type evaluation currently in force.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bob Arrington, 1111 Washington Street, Olympia, WA, (360) 902-1856.

Name of Proponent: Scale Manufacturers Association, Gasoline Pump Manufacturers Association, Meter Manufacturers Association, private.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Rules implementation will preclude buying and selling of "noncertifiable" devices for commercial use in Washington state.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The adoption of this rule will ensure that weighing and measuring devices used commercially in Washington state comply with the provisions of National Institute of Standards and Technology (NIST) Handbook 44 (HB44). HB 44 prescribes the specifications, tolerances, and other technical requirements for weighing and measuring equipment and has been adopted as law in Washington state and is also the standard used by every other state. In adopting NTEP, Washington will also join thirty-nine other states who currently have "type evaluation" in force. Users of devices benefit from NTEP by having confidence that the device they purchase will meet the requirements of HB 44 provided that it is set up and calibrated properly and is suitable for the application. Subsequent to adoption, NTEP will eliminate those devices from the marketplace that do not meet HB 44 requirements. While it may cost the device manufacturer more to undergo the NTEP process, it provides a "one stop" evaluation of their device and avoids the economically untenable position of producing and selling devices that are deemed "not approvable" because they will not meet HB 44 requirements.

Proposal Changes the Following Existing Rules: Currently there is not a specific rule that addresses NTEP certification; the statutory requirements of RCW 19.94.195 stipulate that the department shall adopt specifications, tolerances and other technical requirements as recommended by Handbook 44 for devices used commercially. The adoption of this rule implementing the NTEP evaluation process provides assurance to users, manufacturers, and regulatory personnel that the device type that successfully completes this process will comply with Handbook 44 requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule is designed to "grandfather" devices already in service which were previously deemed as legal, therefore, there will be no expense to business to replace a device with one which has been

through the NTEP process. NTEP provides the manufacturer with an evaluation and review process that, if approved, means the device type has demonstrated conformance with Handbook 44 requirements and avoids the economically untenable position of producing and selling devices that are subsequently deemed "not approvable." In this regard, NTEP can arguably be viewed as a cost savings. NTEP provides the buyer/user with confidence that he/she can be free of the possibility of having a device, purchased in good faith, subsequently condemned for failure to meet a requirement of which they may be totally unaware.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Natural Resources Building, 2nd Floor, Room 205, 1111 Washington Street, Olympia, WA, on May 27, 1997, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by May 22, 1997, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Washington State Department of Agriculture, Attn: Bob Arrington, P.O. Box 42560 or 1111 Washington Street, Olympia, WA 98950-2560 [98504-2560], FAX (360) 902-2086, by May 27, 1997, 5:00 p.m.

Date of Intended Adoption: May 29, 1997.

April 22, 1997  
Julie C. Sandberg  
Assistant Director

## Chapter 16-664 WAC NATIONAL TYPE EVALUATION PROGRAM

### NEW SECTION

**WAC 16-664-010 Purpose.** The purpose of this rule is to assure users, sellers, manufacturers and weights and measures officials that a particular model or type of device and/or equipment is capable of meeting applicable standards.

### NEW SECTION

**WAC 16-664-020 Definitions.** For purposes of this rule:

(1) "Certificate of conformance" means a document issued by the National Institute of Standards and Technology based on testing by a participating laboratory. The certificate evidences conformance of a type with the requirements of the National Institute of Standards and Technology Handbooks 44, 105-1, 105-2, or 105-3.

(2) "Device" means any weighing and measuring device as defined in subsection (4) of this section, Commercial and law enforcement equipment.

(3) "Director" means the director of the Washington state department of agriculture.

(4) "Commercial and law enforcement equipment" means:

(a) Any weighing or measuring equipment commercially used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption, purchased, offered, or submitted for sale, hire, or award, or in computing any

basic charge or payment for services rendered on the basis of weight or measure.

(b) Any accessory attached to or used in connection with a commercial weighing or measuring device when such accessory is so designed that its operation affects the accuracy of the device.

(c) Weighing and measuring equipment in official use for the enforcement of law or for the collection of statistical information by government agencies.

(5) "National type evaluation program" means a program of cooperation between the National Institute of Standards and Technology, other federal agencies, the National Conference on Weights and Measures, the states, and the private sector for determining, on a uniform basis, conformance of a type with the relevant provisions of National Institute of Standards and Technology Handbook 44, "*Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*" and National Conference on Weights and Measures, Publication 14, "*National Type Evaluation Program, Administrative Procedures, Technical Policy, Checklists, and Test Procedures.*"

(6) "One-of-a-kind device" means a device manufactured for sale that has been categorized and tested as a "one-of-a-kind" device. If the manufacturer constructs an additional device or devices, the device is no longer considered to be "one-of-a-kind." This definition also applies to any device that has been determined to be a "one-of-a-kind" device by a weights and measures jurisdiction in one state and the manufacturer decides to manufacture and install the device in another state. In this case, the device must be traceable to a Certificate of Conformance, unless NTEP decides that a Certificate of Conformance will not be required.

(7) "Participating laboratory" means any state measurement laboratory that has been accredited by the National Institute of Standards and Technology in accordance with its program for the Certification of Capability of State Measurement Laboratories, or any state weights and measures agency or other laboratory that has been authorized to conduct a type evaluation under the National Type Evaluation Program.

(8) "Person" means both plural and singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies, and associations.

(9) "Remanufactured device" means a device to which an overhaul or replacement of parts has been performed so the device can be installed in a new location.

(10) "Repaired device" means the maintenance or replacement of parts for a device to remain or return to service in the same location.

(11) "Type" means a model or models of a particular device, measurement system, instrument, or element that positively identifies the design. A specific type may vary in its measurement ranges, size, performance, and operating characteristics as specified in the Certificate of Conformance.

(12) "Type evaluation" means the testing, examination, and/or evaluation of a type by a participating laboratory under the National Type Evaluation Program.

## NEW SECTION

**WAC 16-664-030 Certificate of conformance—When required.** The director shall require a device to be traceable to a Certificate of Conformance prior to its installation or use for commercial or law enforcement purposes.

## NEW SECTION

**WAC 16-664-040 Commercial and law enforcement equipment—Certificate of conformance—Requirements—Exemptions—One-of-kind device—Repaired device—Remanufactured device—Device copy—Components.** (1) Except for a device exempted under subsection (6) of this section, no person shall sell a device, within the state of Washington, unless it is traceable to a Certificate of Conformance. Certificate of Conformance documentation must be provided as part of the sales transaction.

(2) No person shall use a device within the state of Washington, unless it is traceable to a Certificate of Conformance, except when the device is exempted by subsection (3), (4), or (5) of this section. Certificate of Conformance documentation must be maintained at the device location.

(3) A device in service in Washington prior to . . . . ., 19. ., that meets the specifications, tolerances, and other technical requirements of National Institute of Standards and Technology Handbook 44, is not required to be traceable to a Certificate of Conformance.

(4) A device in service in Washington prior to . . . . ., 19. ., removed from service by the owner or on which the department has issued a removal order after . . . . ., 19. ., and returned to service at a later date shall be modified to meet all specifications, tolerances, and other technical requirements of National Institute of Standards and Technology Handbook 44 effective on the date of the return to service. Such a device is not required to be traceable to a Certificate of Conformance.

(5) A device in service in Washington prior to . . . . ., 19. ., which is repaired after such date shall meet the specifications, tolerances, and other technical requirements of National Institute of Standards and Technology Handbook 44 is not required to be traceable to a Certificate of Conformance.

(6) A device in service in Washington prior to . . . . ., 19. ., and sold after such date shall be modified by the seller to meet the specifications, tolerances, and other technical requirements of National Institute of Standards and Technology Handbook 44 on or before the date sold, unless the buyer and seller agree by written contract to exchange the modification responsibility in which case modification must be completed before further commercial application. Such commercial weighing or measuring device is not required to be traceable to a Certificate of Conformance.

(7) A device in service in another state prior to . . . . ., 19. ., may be installed in Washington; however, the device shall meet the specifications, tolerances, and technical requirement for weighing and measuring devices in National Institute of Standards and Technology Handbook 44 and be traceable to a Certificate of Conformance.

(8) One-of-a-kind device — A "one-of-a-kind" device is not required to be traceable to a Certificate of Conformance.

PROPOSED

ance. However, if the manufacturer decides to make an additional device or devices, the device will no longer be considered to be "one-of-a-kind" and it shall be traceable to a Certificate of Conformance. For scales, the load cells and electronic indicators must be traceable to a Certificate of Conformance.

(9) Repaired device — If a person makes changes to a device to the extent that the metrological characteristics are changed, that specific device is no longer traceable to the Certificate of Conformance.

(10) Remanufactured device — If a person repairs or remanufactures a device, they are obligated to repair or remanufacture it consistent with the manufacturer's original design; otherwise, that specific device is no longer traceable to a Certificate of Conformance.

(11) Copy of a device — The manufacturer who copies the design of a device that is traceable to a Certificate of Conformance, but which is made by another company, must obtain a separate Certificate of Conformance for the device. The Certificate of Conformance for the original device shall not apply to the copy.

(12) Device components — If a person buys a load cell(s) and an indicating element that are traceable to Certificates of Conformance and then manufactures a device from the parts, that person shall obtain a Certificate of Conformance for the device.

#### NEW SECTION

**WAC 16-664-050 Unlawful acts.** It shall be unlawful for a person to:

(1) Use a device in commercial application if a Certificate of Conformance has not been issued for such device, unless exempt under WAC 16-664-040;

(2) Sell a device for use in commercial application if a Certificate of Conformance has not been issued for such device, unless exempt under WAC 16-664-040.

#### NEW SECTION

**WAC 16-664-060 Penalty.** Any person who violates the provisions of this chapter is subject to penalties as provided under chapter 19.94 RCW.

### **WSR 97-09-103**

#### **PROPOSED RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Filed April 23, 1997, 11:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-05-037.

Title of Rule: Calibration services.

Purpose: To establish a fee schedule for calibration services that will provide increased revenues to more fully support cost recovery of services provided and comply with the statutory requirements of RCW 19.94.216 which stipulate that fees shall recover seventy-five percent of the costs incurred in performing the service.

Statutory Authority for Adoption: Chapter 19.94 RCW.

Statute Being Implemented: RCW 19.94.216 and 19.94.325.

Summary: This rule provides a single hourly fee schedule which applies to all services performed by the metrology laboratory. Additional mileage and per diem costs are charged for services performed at sites other than the metrology laboratory.

Reasons Supporting Proposal: RCW 19.94.216 stipulates that the metrology laboratory shall recover at least 75% of the laboratory's costs incurred in providing services by June 30, 1998. Cost recovery with current fee schedule is approximately 42%.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bob Arrington, 1111 Washington Street, Olympia, WA, (360) 902-1856.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: RCW 19.94.216 mandates that fees established shall recover at least 75% of the laboratory costs on or before June 30, 1998, and provides for these fees to be increased in excess of the fiscal growth factor as provided in RCW 43.135.055 for the fiscal year ending 1996, 1997, and 1998.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule establishes the fee for inspection, testing and calibration services provided by the department's metrology laboratory. RCW 19.94.216 stipulates that fees charged for services performed by the metrology laboratory would recover at least 75% of the laboratory's costs on or before June 30, 1998. Furthermore, increases in excess of the fiscal growth factor are authorized for fiscal years 1996, 1997, and 1998. The current level of fees which have been in effect since November 1995 have resulted in a 42% cost recovery. This increase in fees is an adjustment to achieve compliance with the statutory requirement.

Proposal Changes the Following Existing Rules: This proposal changes the current metrology laboratory fee schedule from \$50 per hour to \$65 per hour.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Fee levels that will achieve seventy-five percent cost recovery for services performed are mandated by RCW 19.94.216. Based on the current cost recovery rate of forty-two percent, this fee increase is required to achieve the statutory requirement. The proposed rule does not impose more than minor costs on businesses in an industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: Natural Resources Building, 2nd Floor, Room 205, 1111 Washington Street, Olympia, WA 98504, on May 27, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Cathy Jensen by May 22, 1997, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Bob Arrington, P.O. Box 42560 or 1111 Washington Street, Olympia, WA 98504-2560, FAX (360) 902-2086, by May 27, 1997, 5:00 p.m.

Date of Intended Adoption: May 29, 1997.

April 22, 1997  
Julie C. Sandberg  
Assistant Director

**AMENDATORY SECTION** (Amending Order 5084, filed 10/18/95, effective 11/18/95)

**WAC 16-675-010 Purpose.** The department of agriculture promulgates this chapter to implement the provisions of RCW 19.94.216(1) and 19.94.325(2) which allows the director of the state department of agriculture to establish reasonable fees for inspection, tolerance testing and calibration services performed by the metrology laboratory on weights and measures standards.

**AMENDATORY SECTION** (Amending Order 2063, filed 11/26/90, effective 12/27/90)

**WAC 16-675-020 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or the director's duly appointed representative.

(3) "Laboratory" means ~~((weights and measures))~~ the metrology laboratory operated by the department.

(4) "Tolerance testing" means ~~((the allowable amount of variation from a standard))~~ a measurement operation performed to determine whether the actual value of a standard, artifact, or instrument is within a permitted tolerance of its nominal value.

(5) "Calibration" means ~~((process of comparing weights and measures to known standards and determining if the weights and measures compare to the known standards within a tolerance allowed under chapter 19.94 RCW. This term shall also apply to the repairing of any weights or measures submitted to the laboratory.~~

(6) "Avoirdupois" means ~~a system of weights and measures based on a pound containing 16 ounces, 7,000 grains or 453.59 grams.~~

(7) "Metric" means ~~a decimal system of weights and measures based on the meter as a unit length and the kilogram as a unit mass))~~ comparison of a measurement standard or instrument with another standard or instrument to detect, correlate, report, or eliminate by adjustment any inaccuracy of the compared standard or instrument.

**AMENDATORY SECTION** (Amending Order 5084, filed 10/18/95, effective 11/18/95)

**WAC 16-675-030 Condition of submitted weights and measures.** Weights and measures standards submitted to the laboratory for tolerance testing or calibration must be in a physical condition that makes them acceptable for the service to be performed. Unacceptable weights and measures standards may be returned to the sender at the sender's expense or, if repairs can be made, these repairs shall be charged at the rate of ~~((\$50.00))~~ \$65.00 an hour. Repair fees shall be charged in addition to any testing or other calibration fees. Repairs will only be done by written agreement

between the department and the owner of the weights or measures to be repaired.

**AMENDATORY SECTION** (Amending Order 5084, filed 10/18/95, effective 11/18/95)

**WAC 16-675-040 Schedule of laboratory fees.** The following fees will be charged for services performed by the metrology laboratory of the department:

(1) An hourly fee of ~~((fifty))~~ sixty-five dollars per hour will be charged for inspection, tolerance testing and calibration services performed at the metrology laboratory.

(2) Inspection, tolerance testing and calibration services performed at other than the metrology laboratory will be charged an hourly rate of ~~((fifty))~~ sixty-five dollars per hour plus the current mileage and per diem rates established by the office of financial management.

(3) There will be a minimum one-half hour charge for any services provided by the laboratory.

**WSR 97-09-104**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Filed April 23, 1997, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-06-083 and 97-08-128 [97-06-128].

Title of Rule: Commercial fishing rules.

Purpose: Amend Puget Sound commercial salmon fishing rules.

Other Identifying Information: RCW 75.08.080.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: Amend commercial net seasons, closed areas, gear construction.

Reasons Supporting Proposal: Allow for harvest of salmon while protecting seabirds from entanglement in fishing nets. These measures are necessary to reduce entanglements of seabirds in gillnet and purse seine gear during fisheries in Areas 7 and 7A directed at Fraser River origin sockeye and pink salmon. These actions were generated pursuant to a five-year conservation plan which was developed by the Puget Sound net fishing industry in 1994 to address concerns about seabird entanglement in Puget Sound net fisheries. The first year of the plan included a major study to estimate marbled murrelet and other seabird entanglement rates. In addition, a pilot study was initiated to test modified gillnet and purse seine gear designed to reduce bird mortalities. The gillnet gear studies were expanded in 1995 and 1996, and the 1996 study resulted in these recommendations for gillnet gear modifications and fishing pattern changes. The fourth and fifth years of the plan, 1997 and 1998, were intended for phased implementation of fishing pattern changes, and the gear modifications indicated by the studies, to provide greater protection to seabirds.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930;

PROPOSED

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Implementation: Bruce Crawford, 1111 Washington Street, Olympia, 902-2325; and Enforcement: Ron Swatfigure, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington State Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 220-47-301, allow seabirds to escape from purse seines; WAC 220-47-302, allow seabirds to see gillnets; WAC 220-47-304, 220-47-311, 220-47-401, 220-47-411, and 220-47-428, 1997 season adjustments to allow for harvest of salmon; WAC 220-47-307, provide for escape-ment of salmon into Dungeness River system; WAC 220-47-319, provide escapement for juvenile salmonids; WAC 220-47-410, eliminate seabird interception at night and morning change of light; WAC 220-47-411, additionally, limit gillnet interaction with seabirds by reducing Areas 7 and 7A harvest to peak of run; and WAC 220-47-427, continue emerging commercial fishery started in 1996, and allow for continued participation by persons selected in 1996.

Proposal Changes the Following Existing Rules: Modifies seasons, closed areas, closed times for salmon harvest. Proposed gear changes, hours of harvest and other methods to reduce seabird mortality.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement  
for  
Reducing Seabird Net Entanglement

Description of the Proposed Rules: (1) Modify purse seine gear to provide a gap or multiple gaps in the corkline through which birds can escape (WAC 220-47-301); minor impact, see below.

(2) Require gillnet "bird strip" beginning in 1997 during Area 7 sockeye/pink fisheries (WAC 220-47-302). The "bird strip" is defined such that the first twenty meshes below the corkline are composed of five-inch mesh white opaque minimum 210d/48 (#18) diameter nylon twine.

(3) Require gillnet "bird strip" beginning in 1998 during Areas 7 and 7A sockeye/pink fisheries (WAC 220-47-302).

(4) Gillnet Fraser sockeye/pink fisheries are limited in timing to the peak of the sockeye migration (in 1997, gillnet fishing is proposed to be closed prior to August 1, 1997, and after August 23, 1997). (i.e. gillnets will "fish on abundance") (WAC 220-47-411).

(5) Close gillnet fishing during nighttime (defined as 1.5 hours after sunset to 1.5 hours before sunrise) (new section, chapter 220-47 WAC).

(6) Close gillnet fishing during morning change of light (defined as 1.5 hours before and after sunrise) (new section, chapter 220-47 WAC).

Purpose for the Proposed Rules: These measures are necessary to reduce entanglements of seabirds in gillnet and purse seine gear during fisheries in Areas 7 and 7A directed at Fraser River origin sockeye and pink salmon. These actions were generated pursuant to a five-year conservation plan which was developed by the Puget Sound net fishing industry in 1994 to address concerns about seabird entangle-ment in Puget Sound net fisheries. The first year of the plan

included a major study to estimate marbled murrelet and other seabird entanglement rates. In addition, a pilot study was initiated to test modified gillnet and purse seine gear designed to reduce bird mortalities. The gillnet gear studies were expanded in 1995 and 1996, and the 1996 study resulted in these recommendations for gillnet gear modifica-tions and fishing pattern changes. The fourth and fifth years of the plan, 1997 and 1998, were intended for phased implementation of fishing pattern changes, and the gear modifications indicated by the studies, to provide greater protection to seabirds.

Effect of the Proposed Rules on Small Businesses: (1) Elimination of a small number of purse seine corks has minimal effect on the fisher, see below.

(2) and (3) These items involve a capital investment, including materials, supplies and labor, in order to modify fishing nets to meet the proposed new requirement.

(4) through (6) These items involve a loss in fishing efficiency, and potentially income, for the fisher.

Small Business Economic Impact Statement: I. Industry (SIC code) Affected by These Proposed Rules: 0912, Finfish Fisheries.

II. Number of Businesses in That Industry: Only three hundred forty-nine businesses filed taxes with the Washing-ton State Department of Revenue from this SIC code in 1995, the most recent year for which data are available'. This contrasts with approximately 3,756 Washington state licenses sold to commercial harvesters of finfish in 1995.

III. Number of Employees in That Industry: Unknown'.

IV. Number of Small Businesses in That Industry: Unknown'.

V. Number of Businesses in That Industry That are Affected by These Proposed Rules (Number of Puget Sound Gillnet Licenses): Puget Sound gillnets make up 25.7% of the 1995 finfish licenses and 26.6% of the 1996 finfish licenses. Puget Sound purse seines make up 7.9% of the 1996 [1995] finfish licenses and 8.8% of the 1996 finfish licenses. Numbers of licenses in this business category are shown in the table below:

Washington Department of Fish and Wildlife License Statistics

License	1995	1996
Puget Sound gillnet licenses	966	884
Puget Sound purse seine licenses	297	292
All other finfish licenses	2,493	2,141
Total Finfish Licenses	3,756	3,317

VI. Description of Reporting, Recordkeeping, and Other Compliance Measures Required by the Proposal: Compli-ance with the proposed rules potentially includes reduced fishing time (and, therefore, reduced catch) and gear modifi-cations. If businesses in the affected area do not already own gear conforming to the proposed new rules, then compliance with the rules will require modification of existing gear. There are no reporting or record-keeping requirements incorporated into this proposal.

VII. Costs of Compliance: Professional Services Required for Compliance: The services of a professional net

hanger may be employed to accomplish the modification, but are not necessary.

Costs of Compliance, Including Costs of Equipment, Supplies, and Labor, and Loss of Sales or Revenue:

Item (1)

Item	Estimated Cost per Installation
<b>PURSE SEINE CORK REMOVAL</b>	
1 hour labor to detach purse seine corks @ \$25/hour	\$ 25.

No loss of revenue is anticipated from this proposed rule. Since the impact to Puget Sound purse seine fishers from this proposed rule is minor (less than \$50 per business<sup>2</sup>, no additional analysis relative to this item is presented.

Items (2) and (3) - Capital costs:

Item	Estimated Cost per Installation
<b>GILLNET GEAR MODIFICATION</b>	
1800-foot length of 20-mesh deep, 5-inch mesh, #18 or greater white opaque nylon gillnet	\$ 671.
Lacing and hanging twine	\$ 75.
40 hours labor @ \$25/hour to install gillnet "bird strip"	[\$ 1000.]
<b>Total cost per gillnet "bird strip" installation</b>	<b>\$ 746. to \$ 1746.<sup>3</sup></b>

Items (2) through (6) - Loss of revenue:

The analysis regarding loss of revenue is based on several assumptions, as follows:

A. It is assumed that gillnet fishing time will be increased during the open-period window to mitigate for the nighttime and morning-change-of-light closures (Items (5) and (6)) as well as the closures early and late in the season for "fish-on-abundance" (Item (4)). Management intent is to target gillnet fishing to harvest 41% of the United States nontreaty total allowable sockeye catch. Therefore, no additional loss of revenue is expected due to Items (4), (5), and (6), and the estimates below would represent maximum revenue losses.

B. Sockeye salmon harvest with the modified gillnet (Items (2) and (3)) is expected to be reduced by approximately 12% from the standard net<sup>4</sup>. This figure has been derived from research on the modified net's ability to reduce impacts to seabirds as well as its effectiveness in catching salmon. Impacts from this reduction in harvest efficiency are reported in the table below on rows labeled "lost revenue."

C. Because of the "fish-on-abundance" fishing window (Item (4)), gillnet pink harvest will be sacrificed. Approxi-

mately 89% of pink harvest occurs after the proposed August 23 closure. The loss of that harvest is addressed on rows labeled "lost revenue."

D. Catch figures below are from the 1993 sockeye/pink salmon season. 1993 figures are used because, of recent year data, they most closely represent the magnitude of sockeye and pink harvest expected in 1997. Note that the number of Puget Sound gillnet licenses has fallen 18% from 1,075 in 1993 to 884 in 1996. Therefore, actual 1997-and-beyond impacts to the Puget Sound gillnet fleet can be anticipated to be lower than those estimated below.

E. The average catch per landing in this fishery (1993 numbers) was one hundred twenty-four for sockeye and forty-seven for pink.

F. Value per fish is estimated at \$10 for sockeye (1996 dollars, based on sockeye average weight of 6.1 pounds and average price of \$1.64 per pound) and \$0.61 for pink (based on 1996 average weight of 3.8 pounds and \$0.16 per pound).

Analyses are provided for individual boat (equating to individual business?) impacts, fleetwide impacts in Areas 7 and 7A, and fleetwide impacts in Area 7 only.

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## ECONOMIC ANALYSIS OF POTENTIAL GILLNET SALMON HARVEST REDUCTION

ITEM	SOCKEYE	PINK
General Fishery / Season Information (1993 season)		
Season No. Of Boats	776	722
Licensed Boats	1,075	
% Fishing Sockeye/Pink Season	72%	67%
Open Days =	10	
Individual Gillnet Boat Cost for Sockeye Season, Areas 7 & 7A		
Ave. Landings per Boat =	5.2	4.3
Ave. Catch per Boat	650	202
Ave. Estimated Revenue per Boat	\$6,500	\$123
Reduced Revenue per Boat	\$5,720	\$13
Lost Revenue per Boat	\$780	\$109
Total Industry Cost for Sockeye Season, Areas 7 & 7A		
Puget Sound Gillnet Industry Total Catch	502,093	145,187
Total Estimated Revenue to Puget Sound Gillnet Industry	\$5,020,930	\$88,274
Reduced Revenue to Total Puget Sound Gillnet Industry	\$4,418,418	\$9,710
Total Lost Revenue to Puget Sound Gillnet Industry	\$602,512	\$78,564
Industry Cost for Area 7 Implementation Only		
Area 7 % Gillnet Catch Proportion	61%	N/A
Area 7 Gillnet Catch	306,941	
Area 7 Estimated Revenue to Puget Sound Gillnet Industry	\$3,069,410	
Area 7 Reduced Revenue Total Puget Sound Gillnet Industry	\$2,701,081	
Lost Revenue to Area 7 Puget Sound Gillnet Industry	\$368,329	

To summarize, a loss of approximately \$446,893 total Puget Sound gillnet-fleetwide sockeye and pink catch revenue (relative to 1993 catch/revenue levels) can be expected in 1997. Losses of approximately \$602,512 during even-numbered years and \$681,076 during odd-numbered years can be expected annually beginning in 1998 due to implementation of these proposed rules. (Note that pink fisheries occur only in odd-numbered years.) The average individual boat could lose approximately \$889 in sockeye and pink odd-year (\$780 sockeye even-year) catch revenue due to these items.

VIII. Comparison of Costs for Small Businesses Against the Cost to the Largest 10% of Businesses Within the Industry Required to Comply with the Proposed Rule: Neither costs per employee, costs per hour of labor, nor costs per \$100 of sale are different between small businesses and the largest 10% of businesses affected, as noted in the analysis shown in paragraph VII.

IX. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses:

(A) Limited to Puget Sound Area 7 and 7A sockeye and pink fisheries; other fisheries are unaffected by these proposals.

(B) Limited to Puget Sound purse seine and gillnet gear, which represent about half the licensed commercial salmon fishers in this state.

(C) Limited to one area (Area 7) in 1997, two areas (Areas 7 and 7A) in 1998, in order to provide a phase-in period for the requirement.

(D) Rejected option to require a 50-mesh gillnet panel rather than the 20-mesh panel. The 50-mesh panel reduced sockeye catch by approximately 60%.

(E) Management intent is to maximize sockeye harvest by gillnets while minimizing their time on the water. This has the effect of maintaining harvest while reducing both impacts to seabirds and the operating costs necessary to harvest the salmon.

(F) Management intent is to target gillnet fishing during the compressed sockeye fishing period to harvest 41% of the

United States nontreaty total allowable sockeye catch so that gillnet catch losses are minimized.

(G) Using the data presented in paragraph VII, one sockeye fishing period can yield approximately \$1,200 to the average fisher. This figure represents almost 70% of the cash needed to make the net modification, showing that the average fisher can recover the costs of net modification in just two fishing days.

X. Description of How the Agency has Involved Small Businesses in the Development of the Rule: Since 1993, reduction in seabird entanglements in Washington net fisheries has been a major initiative. The net fishing industry (particularly the Puget Sound Gillnetters Association, Purse Seine Vessel Owners Association, Lummi Fisheries Supply), and individual fishers have participated fully in this effort. These stakeholders have figured prominently in the development and implementation of seabird entanglement-rate monitoring studies and modified gear research, and have helped to formulate regulatory actions to be taken, in consultation with the United States Fish and Wildlife Service, National Marine Fisheries Service, Northwest Indian Fisheries Commission, United States Bureau of Indian Affairs, Washington Sea Grant, and representatives from environmental groups such as National Audubon Society, Black Hills Audubon Society, Rainier Audubon Society, American Oceans Campaign, and Greenpeace. The proposed actions addressed by this small business economic impact statement have resulted from that cooperation.

- <sup>1</sup> Pers. Comm. M. Knudsen, Wa. State Dept. Revenue, 4/18/97.
- <sup>2</sup> "Facilitating Regulatory Fairness." Washington State Department of Community, Trade and Economic Development, Washington State Business Assistance Center, January 1995, appendix A.
- <sup>3</sup> Capital cost to fisher depends upon whether labor is done by the fisher (lower cost) or by a professional net hanger.
- <sup>4</sup> Ed Melvin, Washington Sea Grant, Pers. Comm.

A copy of the statement may be obtained by writing to Evan Jacoby, 600 Capitol Way, Olympia, WA 98501, phone (360) 902-2930, or FAX (360) 902-2942.

Note: The small business economic impact statement covers effects on small businesses of measures taken to reduce seabird mortality only.

No small business economic impact statement has been prepared regarding 1997 season changes. Seasonal restrictions are under guidelines proposed by the Pacific Fisheries Management Council, and are not subject to state regulatory change without federal agreement. The only variables are the proposed dates of harvest, and no mitigation is possible because all Washington salmon fisheries are under limited entry. There are no compliance measures required, no costs of compliance, and any revenue loss is a direct consequence of the abundance of salmon, or lack thereof. There is no differential between similar situated licensees. Industry has been fully involved in the federal recommendation process.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Not hydraulics rules.

Hearing Location: Holiday Inn Select, 2300 Evergreen Park Drive, Olympia, on May 30, 1997, at 4:00 p.m.

Assistance for Persons with Disabilities: Contact Robin Ayers by May 15, 1997, TDD (360) 902-2207, or (360) 902-2933.

Submit Written Comments to: Evan Jacoby, Washington Department of Fish and Wildlife, Rules Coordinator, 600 Capitol Way, Olympia, WA 98501, FAX (360) 902-2942, by May 25, 1997.

Date of Intended Adoption: May 30, 1997.

April 23, 1997

Evan Jacoby  
Rules Coordinator

**AMENDATORY SECTION** (Amending Order 87-72, filed 7/14/87)

**WAC 220-47-301 Puget Sound—Lawful gear—Purse seine.** (1) Lawful **purse seine** salmon nets in Puget Sound shall not exceed 1,800 feet in length along the cork line while wet and purse seine and lead combined shall not exceed 2,200 feet. Neither shall contain meshes of a size less than 4 inches, nor shall the meshes of the seine and lead be lashed together to form one continuous piece of webbed gear. It shall be lawful as part of the purse seine to have a bunt 10 fathoms long and 200 meshes deep which may contain mesh of a size not less than 3-1/2 inches.

(2) It shall be unlawful to take or fish for salmon with purse seine gear in Puget Sound which contains mesh webbing constructed of a twine size smaller than 210/30d nylon, 12 thread cotton or the equivalent diameter in any other material.

(3) It shall be unlawful for any purse seine vessel to carry an extra lead or portion thereof unless stowed below decks during the fishing operation, nor may an extra lead or portion thereof be carried aboard its skiff.

(4) Purse seine mesh size shall be defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh. Minimum mesh size is met if a wedge of legal size can be passed without undue force through the mesh while wet.

(5) A purse seine will not be considered to be fishing once both ends of the seine are attached to the primary vessel.

(6) It shall be unlawful to take or fish for salmon with purse seine gear in Puget Sound unless at least three consecutive corks (or floats) have been removed from the corkline within the last five fathoms of the bunt-end of said seine gear.

**AMENDATORY SECTION** (Amending Order 93-55, filed 6/29/93, effective 7/30/93)

**WAC 220-47-302 Puget Sound—Lawful gear—Gill net.** (1) Lawful **drift gill net** salmon gear in Puget Sound shall not exceed 1,800 feet in length nor contain meshes of a size less than 5 inches.

(2) Lawful skiff gill net salmon nets in Puget Sound shall not exceed 300 feet in length and 90 meshes in depth nor contain meshes of a size less than 5 inches. Nets must be retrieved by hand (no hydraulics may be used). ~~((The skiff from which the net is deployed shall not exceed 20 feet in length.))~~ 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.

PROPOSED

(4) All gill net gear used in Puget Sound must have floats or corks of a contrasting color attached in 50-foot intervals along the corkline.

(5) It shall be unlawful to take or fish for salmon with gill net gear in 1997 in Area 7 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/48 (#18) diameter nylon twine.

(6) It shall be unlawful to take or fish for salmon with gill net gear beginning in 1998 in Areas 7 or 7A sockeye or pink fisheries unless said gill net gear is constructed so that the first 20 meshes below the corkline are composed of five-inch mesh white opaque minimum 210d/48 (#18) diameter nylon twine.

**AMENDATORY SECTION** (Amending Order 96-81, filed 7/22/96, effective 8/22/96)

**WAC 220-47-304 Puget Sound—All citizen salmon species seasons.** The following are Puget Sound all citizens salmon species seasons listed by area and species:

AREA	SPECIES	DATE -	RANGE
6D:	COHO	<del>((9/22</del> - <del>10/26))</del> 9/21 - 10/25	
7,7A:	FRASER SOCKEYE AND PINK	<del>((6/25</del> - <del>9/30))</del> 6/22 - 9/27	
	CHUM	<del>((9/29</del> - <del>11/16))</del> 9/28 - 11/15	
7B:	CHINOOK	<del>((8/11</del> - <del>9/7))</del> 8/10 - 9/6	
	COHO	<del>((9/8</del> - <del>10/26))</del> 9/7 - 10/25	
	CHUM	<del>((10/27</del> - <del>12/14))</del> 10/26 - 12/13	
7C:	CHINOOK	<del>((8/11</del> - <del>10/12))</del> 8/10 - 10/11	
8:	PINK CHUM	8/24 - 9/13 <del>((10/27</del> - <del>11/30))</del> 10/26 - 11/29	
8A:	PINK CHUM	8/3 - 9/6 <del>((10/20</del> - <del>11/30))</del> 10/19 - 11/29	
8D:	COHO	<del>((9/22</del> - <del>11/9))</del> 9/21 - 11/8	
	CHUM	<del>((11/10</del> - <del>12/21))</del> 11/9 - 12/20	
9A:	COHO	<del>((9/15</del> - <del>11/2))</del> 9/14 - 11/1	
10, 11:	COHO CHUM	9/7 - 10/11 <del>((10/13</del> - <del>11/30))</del> 10/12 - 11/29	
<del>((11:</del>	<del>COHO</del> <del>CHUM</del>	<del>9/8 - 10/12</del> <del>10/13 - 11/30))</del>	
12:	CHUM	<del>((10/20</del> - <del>11/20))</del> 10/19 - 11/20	
12A:	COHO	<del>((9/1</del> - <del>10/12))</del> 8/31 - 10/11	

12B:	CHUM	<del>((10/27</del> - <del>11/20))</del> 10/19 - 11/20
12C:	CHUM	<del>((10/27</del> - <del>11/30))</del> 10/26 - 11/27

**AMENDATORY SECTION** (Amending Order 96-81, filed 7/22/96, effective 8/22/96)

**WAC 220-47-307 Closed areas—Puget Sound salmon.** It is unlawful at any time, unless otherwise provided, to take, fish for, or possess salmon taken for commercial purposes with any type of gear from the following portions of Puget Sound Salmon Management and Catch Reporting Areas, except that closures listed in this section shall not apply to reef net fishing areas listed in RCW 75.12.140:

Areas 4B, 5, 6, 6B, and 6C - The Strait of Juan de Fuca Preserve as defined in WAC 220-47-266.

Area 6D - That portion within 1,000 feet of each mouth of the Dungeness River. Through October 4, 1997, closed in those waters within 1,000 feet of shore between the Dungeness Oyster House and a fish and wildlife boundary marker 1,000 feet east of the easternmost mouth of the Dungeness River.

Area 7 - (1) The San Juan Island Preserve as defined in WAC 220-47-262.

(2) Those waters within 1,500 feet of shore on Orcas Island from Deer Point northeasterly to Lawrence Point thence west to a point intercepting a line projected from the northernmost point of Jones Island thence 90° true to Orcas Island.

(3) Those waters within 1,500 feet of the shore of Cypress Island from Cypress Head to the northernmost point of Cypress Island.

(4) Those waters easterly of a line projected from Iceberg Point to Iceberg Island, to the easternmost point of Charles Island, then true north from the northernmost point of Charles Island to the shore of Lopez Island.

(5) Those waters northerly of a line projected from the southernmost point of land at Aleck Bay to the westernmost point of Colville Island, thence from the easternmost point of Colville Island to Point Colville.

(6) Those waters easterly of a line projected from Edith Point on Fidalgo Island to the Dennis Shoal Light, thence to the light on the westernmost point of Burrows Island, thence to the southwesternmost point of Fidalgo Head.

Area 7A - The Drayton Harbor Preserve as defined in WAC 220-47-252.

Area 7B - That portion south and east of a line from William Point on Samish Island to Saddlebag Island to the southeastern tip of Guemes Island, and that portion northerly of the railroad trestle in Chuckanut Bay.

Area 7C - That portion southeasterly of a line projected from the mouth of Oyster Creek 237° true to a fishing boundary marker on Samish Island.

Area 8 - (1) That portion of Skagit Bay easterly of a line projected from Brown Point on Camano Island to a white monument on the easterly point of Ika Island, thence across the Skagit River to the terminus of the jetty with McGlinn Island.

PROPOSED

(2) Those waters within 1,500 feet of the western shore of Camano Island south of a line projected true west from Rocky Point.

Area 8A - Those waters easterly of a line projected from Mission Point to Buoy C1, excluding the waters of Area 8D, thence through the green light at the entrance jetty of the Snohomish River and across the mouth of the Snohomish River to landfall on the eastern shore, and those waters northerly of a line from Camano Head to the northern boundary of Area 8D.

Area 9 - Those waters lying inside and westerly of a line projected from the Point No Point light to Sierra Echo buoy thence to Forbes Landing wharf, east of Hansville.

Area 10 - (1) Those waters easterly of a line projected from Meadow Point to West Point.

(2) Those waters of Port Madison northwest of a line from the Agate Pass entrance light to the light on the end of the Indianola dock.

(3) Additional coho seasonal closure: Those waters of Elliott Bay east of a line from Alki Point to the light at Fourmile Rock and those waters northerly of a line projected from Point Wells to "SF" Buoy then west to President's Point.

Area 10E - Those waters of Liberty Bay north of a line projected due east from the southernmost Keyport dock, those waters of Dyes Inlet north of the Manette Bridge, and those waters of Sinclair Inlet southwest of a line projected true east from the Bremerton ferry terminal.

Area 11 - (1) Those waters northerly of a line projected true west from the light at the mouth of Gig Harbor and those waters south of a line from Browns Point to the northernmost point of land on Point Defiance.

(2) Additional coho seasonal closure: Those waters south of a line projected from the light at the mouth of Gig Harbor to the Tahlequah ferry dock then south to the Point Defiance ferry dock, and those waters south of a line projected from the Point Defiance ferry dock to Dash Point.

Area 12 - Those waters inside and easterly of a line projected from Lone Rock to the navigation light off Big Beef Creek, thence southerly to the tip of the outermost northern headland of Little Beef Creek.

Area 12A - Those waters north of a line projected due east from Broad Spit.

Area 12B - Those waters within 1/4 mile of the mouths of the Dosewallips, Duckabush, and Hamma Hamma rivers and Anderson Creek.

Areas 12, 12A, and 12B - Additional chinook seasonal closure: Those waters north and east of a line projected from Tekiu Point to Triton Head.

Areas 12, 12B and 12C - Those waters within 1,000 feet of the eastern shore.

Area 12C - (1) Those waters within 2,000 feet of the western shore between the dock at Glen Ayr R.V. Park and the Hoodspport marina dock.

(2) Those waters south of a line projected from the Cushman Powerhouse to the public boat ramp at Union.

(3) Those waters within 1/4 mile of the mouth of the Dewatto River.

Areas 12 and 12D - Additional coho and chum seasonal closure: Those waters of Area 12 south and west of a line projected 94 degrees true from Hazel Point to the light on

the opposite shore, bounded on the west by the Area 12/12B boundary line, and those waters of Area 12D.

Area 13A - Those waters of Burley Lagoon north of State Route 302, those waters within 1,000 feet of the outer oyster stakes off Minter Creek Bay including all waters of Minter Creek Bay, those waters westerly of a line drawn due north from Thompson Spit at the mouth of Glen Cove, and those waters within 1/4 mile of Green Point.

AMENDATORY SECTION (Amending Order 96-81, filed 7/22/96, effective 8/22/96)

**WAC 220-47-311 Purse seine—Open periods.** During ((1996)) 1997, 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	TIME	DATE
7, 7A:	6AM	10/28	8PM	10/29
	6AM	11/04	8PM	11/06
	6AM	11/12	8PM	11/14
	6AM	11/17	8PM	11/23
7B:	6AM	9/09	4PM	9/11
	6AM	9/15	4PM	11/09
	6AM	11/11	4PM	11/15
	6AM	11/18	4PM	11/22
	6AM	11/25	4PM	11/29
	6AM	12/02	4PM	12/06
8:	7AM		4PM	12/13
	7AM		5PM	11/13
	6AM	11/18	8PM	11/19
8A:	6AM	11/25	8PM	11/27
	6AM	10/21	8PM	10/22
	6AM	10/28	8PM	10/29
	6AM	11/04	8PM	11/06
	6AM	11/12	8PM	11/14
	6AM	11/18	8PM	11/20
8D:	6AM	11/25	8PM	11/27
	7AM		7PM	9/30, 10/01,
				10/02, 10/03,
				10/08, 10/09,
				10/10, 10/11
	7AM		6PM	10/14, 10/15,
				10/16, 10/17
	6AM	10/21	8PM	10/22
	6AM	10/28	8PM	10/29
	6AM	11/04	8PM	11/06
	6AM	11/12	8PM	11/14
	6AM	11/18	8PM	11/20
	6AM	11/25	8PM	11/27
10:	7AM		6PM	10/21
	7AM		5PM	10/29, 11/04,
			11/13, 11/18	
11:	7AM		6PM	10/21
	7AM		5PM	10/29, 11/04,
			11/13, 11/18	
12, 12B:	7AM		5PM	11/04, 11/05,
				11/13, 11/14,
				11/18, 11/19
12C:	7AM		5PM	11/18, 11/19,
				11/26, 11/27

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~~It is unlawful to retain coho and chinook salmon taken with purse seine gear in areas 8, 12, 12B and 12C. All other saltwater and freshwater areas closed.))~~

AREA	TIME	DATE	TIME	DATE
7, 7A:	7AM	-	6PM	10/20, 10/21, 10/29, 10/30,
	6AM	-	5PM	11/03, 11/12, 11/13
7B:	6AM	9/08	4PM	9/12
	6AM	9/15	4PM	9/19
	6AM	9/21	4PM	11/01
	6AM	11/03	4PM	11/07
	6AM	11/10	4PM	11/14
	6AM	11/17	4PM	11/21
	6AM	11/24	4PM	11/28
	6AM	12/01	4PM	12/05
8:	5AM	-	9PM	8/25, 8/26
	6AM	-	8PM	9/04, 9/05, 9/08, 9/09
8A:	7AM	-	6PM	10/28
	7AM	-	5PM	11/03, 11/04, 11/12, 11/17
	7AM	-	6PM	10/29, 10/30
8A:	7AM	-	5PM	11/03, 11/04, 11/12, 11/13, 11/17, 11/18, 11/24, 11/25, 11/26
	7AM	-	7PM	9/22, 9/23, 9/24, 9/25, 9/30, 10/01, 10/02, 10/03, 10/06, 10/07, 10/08, 10/09, 10/14, 10/15, 10/16, 10/17, 10/20, 10/21, 10/22, 10/23
8D:	7AM	-	6PM	10/29, 10/30
	7AM	-	5PM	11/03, 11/04, 11/12, 11/13, 11/17, 11/18, 11/24, 11/25, 11/26
10, 11:	7AM	-	6PM	10/20, 10/28
	7AM	-	5PM	11/03, 11/12, 11/17
12, 12B:	7AM	-	6PM	10/20, 10/21, 10/28, 10/29
	7AM	-	5PM	11/03, 11/04, 11/12, 11/17

It is unlawful to retain chinook salmon taken with purse seine gear in Areas 7, 7B, 8, 8A, 12, 12B and 12C. It is unlawful to retain chinook salmon taken with purse seine gear in Area 7A from October 1 to November 30, 1997. It is unlawful to retain coho salmon taken with purse seine gear in Area 8A. All other saltwater and freshwater areas closed.

AMENDATORY SECTION (Amending Order 92-47, filed 7/20/92, effective 8/20/92)

**WAC 220-47-319 Special purse seine mesh size.** It shall be unlawful to take, fish for or possess salmon taken with purse seine gear in any Puget Sound Salmon Manage-

ment and Catch Reporting Area exclusive of ((Fraser Panel)) sockeye and pink salmon management unless said purse seine gear is constructed so that the first 100 meshes below the corkline that are within 75 fathoms of the bunt, excluding the bunt, are of a size not less than 5 inches stretch measure.

AMENDATORY SECTION (Amending Order 96-81, filed 7/22/96, effective 8/22/96)

**WAC 220-47-401 Reef net open periods.** ((During 1996, it is unlawful to take, fish for or possess salmon taken with reef net gear for commercial purposes in Puget Sound.)) During 1997, 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 9/15 - 9/19 9/22 - 9/26 9/29 - 10/3 10/6 - 10/10 10/13 - 10/17 10/20 - 10/24 10/27 - 10/31 11/3 - 11/7

All other saltwater and freshwater areas - closed.

NEW SECTION

**WAC 220-47-410 Gill net—Daily hours.** It shall be unlawful to take or fish for sockeye or pink salmon in Areas 7 or 7A with gill net gear from 1.5 hours after sunset to 1.5 hours after sunrise.

AMENDATORY SECTION (Amending Order 96-81, filed 7/22/96, effective 8/22/96)

**WAC 220-47-411 Gill net—Open periods.** During ((1996)) 1997, it is unlawful to take, fish for or possess salmon taken with gill net gear for commercial purposes from Puget Sound except in the following designated Puget Sound Salmon Management and Catch Reporting Areas during the seasons provided for hereinafter in each respective fishing area:

(AREA)	TIME	DATE(S)
6D:	7AM - 7PM	DAILY 10/1 - 10/4 10/7 - 10/11 10/14 - 10/18 10/21 - 10/25

Note: Area 6D skiff gill net only. It is unlawful to retain chinook salmon taken in Area 6D.

7, 7A:	6AM	10/28	8PM	10/29
	6AM	11/4	8PM	11/6
	6AM	11/12	8PM	11/14
	6AM	11/17	8PM	11/23
7B:	7PM - 8AM	NIGHTLY	8/19, 8/26, 9/3	
	6AM	9/9	4PM	9/11
	6AM	9/15	4PM	11/9
	6AM	11/11	4PM	11/15
	6AM	11/18	4PM	11/22
	6AM	11/25	4PM	11/29

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	6AM	12/2	4PM	12/6
	6AM	12/9	4PM	12/13
7C:	7PM	8AM	NIGHTLY 8/19, 8/26, 9/3	
8:	4PM	11/12	8AM	11/13
	6AM	11/18	8PM	11/19
	6AM	11/25	8PM	11/27
8A:	6AM	10/21	8PM	10/22
	6AM	10/28	8PM	10/29
	6AM	11/4	8PM	11/6
	6AM	11/12	8PM	11/14
	6AM	11/18	8PM	11/20
	6AM	11/25	8PM	11/27
8D:	6PM	8AM	NIGHTLY 9/30, 10/1, 10/2, 10/3, 10/7, 10/8, 10/9, 10/10	
	5PM	8AM	NIGHTLY 10/14, 10/15, 10/16, 10/17	
	6AM	10/21	8PM	10/22
	6AM	10/28	8PM	10/29
	6AM	11/4	8PM	11/6
	6AM	11/12	8PM	11/14
	6AM	11/18	8PM	11/20
	6AM	11/25	8PM	11/27
9A:	6AM	9/16	4PM	9/20
	6AM	9/23	4PM	9/27
	6AM	9/30	4PM	10/4
	6AM	10/7	4PM	10/11
	6AM	10/14	4PM	10/18
	6AM	10/21	4PM	10/25
	6AM	10/28	4PM	11/1
10:	5PM	10/21	8AM	10/22
	4PM	8AM	NIGHTLY 10/28, 11/4, 11/12, 11/18	
11:	5PM	10/21	8AM	10/22
	4PM	8AM	NIGHTLY 10/28, 11/4, 11/12, 11/18	
12, 12B:	4PM	8AM	NIGHTLY 11/4, 11/5, 11/12, 11/13, 11/18, 11/19	
12C:	4PM	8AM	NIGHTLY 11/18, 11/19, 11/25, 11/26	

All other saltwater and freshwater areas—closed.  
 (Nightly openings refer to the start date.)

AREA	TIME	:	DATE(S)
6D:	7AM - 8PM	:	9/29, 9/30, 10/1, 10/2, 10/3, 10/6, 10/7, 10/8, 10/9, 10/10
	7AM - 7PM	:	10/13, 10/14, 10/15, 10/16, 10/17, 10/20, 10/21, 10/22, 10/23, 10/24

Note: Area 6D skiff gill net only. It is unlawful to retain chinook or pink salmon in Area 6D.

7, 7A:	7AM - 7PM	:	10/29, 10/23
	7AM - 6PM	:	10/27, 10/28, 11/4, 11/10, 11/11

Note: In 1997, it shall be unlawful to take or fish for sockeye or pink salmon in areas 7 or 7A with gill net gear prior to August 1, 1997, and after August 23, 1997.

7B:	7PM - 9AM	:	NIGHTLY 8/18, 8/25, 8/26, 9/2
	6AM	9/8	4PM
	6AM	9/15	4PM
	6AM	9/21	4PM
	6AM	11/3	4PM
	6AM	11/10	4PM

	6AM	11/17	:	4PM	11/21
	6AM	11/24	:	4PM	11/28
	6AM	12/1	:	4PM	12/5
	6AM	12/8	:	4PM	12/12
7C:	7PM - 9AM	:	NIGHTLY 8/18, 8/25, 8/26, 9/2		
8:	6AM - 9PM	:	8/27, 8/28, 9/2, 9/3, 9/10, 9/11, 10/27, 11/5, 11/6, 11/10, 11/18, 10/27, 10/28, 11/5, 11/6, 11/10, 11/11, 11/19, 11/20, 11/22, 11/23, 11/24		
8A:	7AM - 6PM	:	7AM - 6PM		
	7AM - 5PM	:	7AM - 5PM		
8D:	6PM - 8AM	:	NIGHTLY 9/22, 9/23, 9/24, 9/25, 9/29, 9/30, 10/1, 10/2, 10/6, 10/7, 10/8, 10/9, 10/13, 10/14, 10/15, 10/16, 10/20, 10/21, 10/22, 10/23, 10/27, 10/28, 11/5, 11/6, 11/10, 11/11, 11/19, 11/20, 11/22, 11/23, 11/24		
	7AM - 6PM	:	7AM - 6PM		
	7AM - 5PM	:	7AM - 5PM		
9A:	6AM	9/14	through	4PM	11/1
10, 11:	5PM - 8AM	:	NIGHTLY 10/20, 10/27		
	4PM - 8AM	:	NIGHTLY 11/3, 11/10, 11/17		
12, 12B:	5PM - 8AM	:	NIGHTLY 10/20, 10/21, 10/27, 10/28		
	4PM - 8AM	:	NIGHTLY 11/3, 11/4, 11/10, 11/17		

All other saltwater and freshwater areas - closed.  
 (Nightly openings refer to the start date.)

**AMENDATORY SECTION** (Amending Order 96-152, filed 9/12/96, effective 10/13/96)

**WAC 220-47-427 Puget Sound—Beach seine—Emerging commercial fishery—Eligibility—Lawful gear.**

(1) The Puget Sound beach seine salmon fishery is designated as an emerging commercial fishery for which a vessel is required. An emerging commercial fishery license and an experimental fishery permit are required to participate in this fishery.

(2) The department will issue five Quilcene Bay salmon beach seine experimental fishery permits (Quilcene permits). ((In order to be eligible to apply for a Quilcene permit, a person must be a current holder of a salmon gill net Puget Sound fishery license or a salmon purse seine fishery license. Only the owner of the license is eligible to apply.))

(3) The following is the selection process the department will use to offer a Quilcene permit.

(a) ((The department will accept applications for a Quilcene permit until 5:00 p.m. on the fourteenth day prior to the opening of the fishery provided for in WAC 220-47-428.)) Persons who held a Quilcene Bay salmon beach seine experimental fishery permit in 1996 will be eligible for a permit in 1997.

(b) The department ((will pool the applications received from gill net fishers and from purse seine fishers separately. The names of two gill net fishers and two purse seine fishers will be drawn randomly. The two pools will be combined and a fifth name will be drawn at random. If there are

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insufficient names in either pool, the selection will default to the other gear group.

(e) ~~Successful applicants will be notified immediately, and will have seven working days from the date of selection to purchase the license. If the license has not been purchased by the close of business on the seventh working day or the applicant wishes not to be a participant, another name will be drawn from the respective pool or combined pool~~) established a pool of applicants by drawing on September 9, 1996. The pool established by this drawing will be maintained to replace any permit(s) which may be voided.

(4) ~~((Successful applicants))~~ Permit holders are required to participate in the Quilcene Bay salmon beach seine experimental fishery.

(a) For purposes of this section, "participation" means the holder of the Quilcene permit being aboard the designated vessel in the open fishery area four days each week during the open fishing period, except that while the Fraser Panel of the Pacific Salmon Commission maintains control of fisheries in Areas 7 and 7A "participation" means the holder of the Quilcene permit being aboard the designated vessel in the open fishery area two days each week during the open fishing period.

(b) If the Quilcene permit holder fails to participate, the Quilcene permit issued to that fisher will be void and a new Quilcene permit will be reissued through a random drawing from the applicant pool ~~((of the voided permit holder))~~ established in 1996.

(c) The department may require proof of participation by registering with state, federal or tribal officials each day the Quilcene permit holder participates.

(d) Persons who participate, but violate conditions of a Quilcene permit, will have the permit voided and a new Quilcene permit will be reissued through a random drawing from the pool of the voided permit holder. Chum salmon may not be retained by a Quilcene permit holder. Chum salmon must be released alive, or, at the direction of federal or state officials, submitted for broodstock purposes.

(5) Any person who fails to purchase the license, fails to participate, or violates the conditions of a Quilcene permit will have his or her name permanently withdrawn from the pools.

(6) It is unlawful to take salmon with beach seine gear that does not meet the requirements of this subsection.

(a) Beach seine salmon nets in Puget Sound shall not exceed 600 feet in length or 100 meshes in depth, or contain meshes of a size less than 3 inches or greater than 4 inches.

(b) Mesh webbing must be constructed with a twine size no smaller than 210/30d nylon, 12 thread cotton, or the equivalent diameter in any other material.

AMENDATORY SECTION (Amending Order 96-81, filed 7/22/96, effective 8/22/96)

**WAC 220-47-428 Beach seine—Open periods.** During 1996, 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)
<del>((12A</del>	<del>7AM - 7PM</del>	Daily <del>9/23, 9/24, 9/25, 9/26, 9/27, 9/30, 10/1, 10/2, 10/3, 10/4, 10/7, 10/8, 10/9, 10/10, 10/11)</del>
12A:	7AM - 7PM	9/2, 9/3, 9/4, 9/5, 9/8, 9/9, 9/10, 9/11, 9/12, 9/15, 9/16, 9/17, 9/18, 9/19, 9/22, 9/23, 9/24, 9/25, 9/26, 9/29, 9/30, 10/1, 10/2, 10/3, 10/6, 10/7, 10/8, 10/9, 10/10, 10/13, 10/14, 10/15, 10/16, 10/17

**WSR 97-09-106  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**  
(Children's Administration)  
(Public Assistance)  
[Filed April 23, 1997, 11:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 97-02-031.

Title of Rule: Notification - CPS allegations and findings.

Purpose: The proposed amendments to the rules require the department to notify alleged perpetrators of child abuse and neglect of the nature of the allegations and the conclusions reached following investigation.

Other Identifying Information: WAC 388-330-035 and 388-15-134.

Statutory Authority for Adoption: RCW 74.15.030.

Statute Being Implemented: Chapter 26.44 RCW and RCW 74.15.030.

Summary: The amendments incorporate changes resulting from negotiations with the American Civil Liberties Union. The changes also reflect clarifications of policy.

Reasons Supporting Proposal: Provide notice and appeal rights of persons affected by CPS investigations.

Name of Agency Personnel Responsible for Drafting: Art Cantrall, Department of Social and Health Services, Olympia, (360) 902-7956; Implementation: Jennifer Strus, Department of Social and Health Services, Olympia, (360) 902-7911; and Enforcement: Rosalyn Oreskovich, Department of Social and Health Services, Olympia, (360) 902-7820.

Name of Proponent: American Civil Liberties Union, private; and Department of Social and Health Services, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-330-035 provides appeal procedures for a person disqualified from employment in a child care

agency and restriction on use of records if the appeal is successful. The rule is amended to require the department to inform the person and any employer that nothing prohibits the person from being employed or associated with a child care agency, if the allegation was found in hearing to not be supported by a preponderance of the evidence.

WAC 388-15-134 is modified to require notification of alleged perpetrators of allegations of child abuse and neglect. It also requires notification to the alleged perpetrator of the results of the investigation, whether founded, unfounded, or inconclusive. It also requires notification about the existence of the department's record and of possible use of the information in future actions, as well of [as] the right to submit a written response to be included in the record and to ask for an informal meeting to contest the information in the record.

Proposal Changes the Following Existing Rules: The changes are described above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no fiscal impact on small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This section (RCW 34.08.328 [34.05.328]) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on May 27, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by May 13, 1997, TTY (360) 902-8324, or (360) 902-7540.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by May 27, 1997.

Date of Intended Adoption: No sooner than May 28, 1997.

April 23, 1997  
Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 2773, filed 3/8/89)

**WAC 388-15-134 Child protective services—Notification.** (1) **Duty to notify.** The department shall notify the parent or legal custodian of a child when:

- (a) The department is investigating a report alleging an act or acts of child abuse or neglect (CA/N); and
  - (i) Their child is alleged to be the victim; and/or
  - (ii) The department interviews a child alleged to be the victim of CA/N.

- (b) The department takes a child into custody pursuant to a court order issued under RCW 13.34.050;

- (c) The department receives custody of a child from law enforcement pursuant to RCW 26.44.050; and

- (d) The department files a dependency petition.

(2) **Notification of noncustodial parents.**

- (a) The department shall notify noncustodial parents when a child is taken into custody pursuant to RCW 26.44.050 or 13.34.050 and placed into the custody of the department, and

- (b) Notification shall also occur when the department files a dependency petition.

(3) **Notification of alleged perpetrator.** The department shall notify the alleged perpetrator of the allegations of child abuse and neglect at the earliest point in the investigation that will not jeopardize the safety and protection of the child or the investigation process.

(4) **Notification contents.** Whenever a child is taken into custody under RCW 13.34.050 or 26.44.050, the notification required by this section shall comply with the requirement of RCW 26.44.120. The notification shall also include:

- (a) A description of the department's action; and
- (b) The reason or reasons for the department's actions.

~~((4))~~ (5) **Opportunity to review case information.** The department shall:

- (a) Notify the person or persons legally responsible for the child of the address of the office where the case record information will be on file; and

- (b) Provide them with the opportunity to read parts of the case record relating to the allegations, provided:

- (i) They have requested access to the information, and
- (ii) Such access is not otherwise prohibited by law.

~~((5))~~ (6) **Disclosure of case information.** The department shall not disclose case record information except as permitted under provisions of chapter 388-320 WAC and applicable statutes. The department shall not disclose the name and address of any ~~((referant))~~ referent who requests their identity be held in confidence. Even if disclosure is otherwise permissible, the department may refuse disclosure of the name and address of any victim.

~~((6))~~ (7) **Notification of CPS investigative findings.** Whenever the department completes an investigation of a child abuse or neglect report under chapter 26.44 RCW, the department shall notify the alleged perpetrator of the report and the department's investigative findings, whether founded, unfounded, or inconclusive. The notice shall also advise the person that:

- (a) A written response to the report may be provided to the department and that such response will be filed in the record following receipt by the department;

- (b) Information in the department's record may be considered in subsequent investigations or proceedings related to child protection or child custody;

- (c) There is currently information in the department's record that may be considered in determining that the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by the department to care for children; and

- (d) A person who has demonstrated a good faith desire to work in a licensed agency may request an informal meeting with the department to have an opportunity to discuss and contest the information currently in the record, pursuant to WAC 388-330-035(1).

(8) **Method of notification.** The notification required by this section shall be made by regular mail to the person's last known address, with a copy of the notice placed in the case file.

(9) **Limits of duty to notify.** The duty of notification created by this section shall be subject to the ability of the department to ascertain the location of the person to be

notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

**AMENDATORY SECTION** (Amending Order 3974, filed 4/26/96, effective 5/27/96)

**WAC 388-330-035 Appeal of disqualification.** (1) Whenever a person in good faith desires employment in an agency licensed under chapter 74.15 RCW, the person, prior to applying for employment, upon request, shall promptly receive from the department an informal meeting on whether the person is disqualified from employment for not meeting the minimum requirements pursuant to chapter 74.15 RCW or rules promulgated thereunder.

(a) Prior to receiving an informal meeting under this subsection, it shall be the responsibility of a person requesting the meeting to demonstrate a good faith desire for employment in an agency licensed under chapter 74.15 RCW. Such demonstration of good faith shall include, but not be limited to, a showing of educational qualifications, employment history information, current employment, and plans for obtaining employment in a licensed agency in the near future. The department's determination regarding whether the person requesting the meeting has demonstrated a good faith desire for employment is final and not subject to a proceeding under chapter 34.05 RCW. The department shall notify such person promptly following the meeting of its determination in writing.

(b) If the department determines, subsequent to an informal meeting under this subsection, that a person is disqualified, the department shall give written notice of the disqualification to the person. The notice shall state what the person is disqualified from doing, the reasons for the disqualification, the applicable law under which the person is disqualified, and their right to an adjudicative proceeding under chapter 34.05 RCW.

(2) If the department during employment or at the time of employment, determines that a person is disqualified from employment with a child care agency for not meeting minimum requirements under chapter 74.15 RCW or rules promulgated thereunder, the department shall give written notice of disqualification to the person. The notice shall state what the person is disqualified from doing, reasons for the disqualification, and the applicable law under which the person is disqualified, and their right to an adjudicative proceeding under chapter 34.05 RCW.

(3) The procedures in RCW 43.20A.205 shall apply whenever the department issues a notice of disqualification to a person under this section. If the disqualified person requests an adjudicative proceeding, the department shall have the burden of proving disqualification by a preponderance of the evidence.

(4) A licensee under chapter 74.15 RCW may not allow a person disqualified under this section to be employed by or associate with the licensee's agency. Disqualification of a person may not be contested by a licensee.

(5) The provisions of this section do not preclude the department from taking any action against a licensee in accordance with chapter 74.15 RCW or rules promulgated thereunder.

(6) ~~((If a notice of disqualification is based on a prior department finding of abuse or neglect, and))~~ If after a hearing under chapter 34.05 RCW it is determined that the allegations are not supported by a preponderance of the evidence, the department's records shall be supplemented to so state and the person and any employer shall be informed that there is nothing prohibiting the person from being employed by or associated with a licensed child care agency. If an employer is aware that the hearing has occurred, the employer shall additionally be informed that the department failed to prove the allegations at issue in the hearing.

(7) If at a hearing under chapter 34.05 RCW the appellant proves by clear, cogent and convincing evidence that the incident of abuse or neglect on which the notice of disqualification is based did not occur and that the allegation is false, the record shall be supplemented to so state, and the department shall restrict access to all such reports so that the reports will not thereafter be considered by the department in determining whether a person is disqualified.

(8) The department in accordance with WAC 388-330-030 may remove a disqualification based on conviction of a crime.

The department may remove a disqualification based on a reason other than conviction of a crime if the disqualified person demonstrates by clear, cogent, and convincing evidence that the person is sufficiently rehabilitated to warrant public trust and to comply with the requirements of chapter 74.15 RCW, and the rules promulgated thereunder.

**WSR 97-09-107**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

(Public Assistance)

[Filed April 23, 1997, 11:34 a.m.]

Original Notice.

Title of Rule: WAC 388-49-310 Citizenship and alien status.

Purpose: Ensures all noncitizens food stamp program recipients meet the alien status requirements in Public Law 104-193.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: Section 510 of Public Law 104-208 (1996).

Summary: Authorizes the department to determine alien status eligibility between April 1, 1997, and August 1, 1997, for all noncitizen food stamp program recipients.

Reasons Supporting Proposal: Section 510 of Public Law 104-208 (1996).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joan Wirth, Division of Assistance Programs, (360) 413-3073.

Name of Proponent: Joan Wirth, Division of Assistance Programs, governmental.

Rule is necessary because of federal law, Section 402 of HR 3734.

Explanation of Rule, its Purpose, and Anticipated Effects: Ensures all noncitizen food stamp recipients meet

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the new alien status requirements in Public Law 104-193. Will impact workload in Community Services Office (CSO).

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not apply to this rule.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. This section does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on May 27, 1997, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by May 13, 1997, (360) 902-7540 or TTY (360) 902-8324.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by May 27, 1997.

Date of Intended Adoption: No sooner than May 28, 1997.

April 23, 1997

Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 97-06-074, filed 2/28/97, effective 3/31/97)

**WAC 388-49-310 Citizenship and alien status. (1)**

The department shall require applicants to sign the application attesting to their citizenship or alien status as described under WAC 388-49-030(6).

(2) The department shall consider applicants as of January 1, 1997 and current recipients (~~as of~~) after April 1, 1997, but no later than August 22, 1997, who fail to meet the requirements of subsections (1) and (3) of this section as ineligible household members under WAC 388-49-190(4), 388-49-420(5), and 388-49-480(2).

(3) The department shall consider the following persons residing in the United States eligible for participation in the food stamp program:

(a) A United States citizen;

(b) An alien lawfully admitted for permanent residence under the Immigration and Nationality Act who has worked forty qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with such qualifying quarters.

(i) An alien can be credited for each qualifying quarter worked by a:

(A) Parent while the alien was under age eighteen, or

(B) Spouse during their marriage if the alien remains married to the spouse or the spouse is deceased.

(ii) Beginning January 1, 1997, any quarter in which the alien received any federal means-tested public benefit is not counted as a qualifying quarter.

(iii) The department shall accept a statement under penalty of perjury signed by the applicant or recipient that he or she has earned or can be credited with forty qualifying quarters of coverage, until Social Security Administration

(SSA) either confirms or denies the existence of such forty qualifying quarters of coverage, when:

(A) The applicant or recipient cannot provide SSA documents verifying forty qualifying quarters of coverage; and

(B) The applicant or recipient, alone or in combination with the person's spouse, or the person's parent have lived in the United States a sufficient number of years consistent with the applicant or recipient having earned or being credited with forty qualifying quarters; and

(C) The applicant or recipient provides the full name, date of birth, social security number, and sex of each person whose work history is relevant to the determination of eligibility. The applicant or recipient must sign or have each individual sign a consent form to give permission to SSA to release qualifying quarters information to the department.

(iv) If SSA cannot initially confirm forty qualifying quarters of coverage, the client will be considered ineligible unless the applicant or recipient:

(A) Presents to the department a SSA document indicating a SSA review is in process; or

(B) Presents evidence or statements satisfactory to the department of qualifying quarters for the calendar years 1996 and 1997 such that the individual will establish, in addition to SSA information, a total of forty qualifying quarters.

(v) The individual, who provides the department with a SSA document indicating a review of the individual's records is in process, can continue, if otherwise eligible, to receive benefits for six months from the date of SSA's initial response or until SSA has completed its review, whichever is earlier.

(vi) If, after recipient completes the SSA verification and review process, forty qualifying quarters of coverage have not been established, the recipient may present evidence to the department to establish forty qualifying quarters. Evidence may include a credible statement from the individual in addition to corroborating evidence, if available, to assist the department in making an independent assessment of the forty qualifying quarters requirement.

(vii) If forty qualifying quarters of coverage cannot be established, the department shall establish a claim for the overissuance.

(c) A qualified alien, as defined under section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the qualified alien spouse or unmarried dependent qualified alien child of the alien, lawfully residing in the United States, who is:

(i) A veteran, as defined in section 101 of Title 38, United States Code, with a discharge characterized as an honorable discharge and not on account of alienage; or

(ii) On active duty, other than active duty for training, in the Armed Forces of the United States.

(d) An alien admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until five years after the date of such admission as a refugee;

(e) An alien granted asylum under section 208 of the Immigration and Nationality Act until five years after the date of granting such status; or

(f) An alien living in the United States whose deportation is withheld under section 243(h) of the Immigration and

Nationality Act until five years after the date such deportation is withheld.

- (4) The household shall provide verification when:
- (a) Citizenship is questionable; or
  - (b) One or more of its members are aliens.
- (i) The department shall not contact the immigration and naturalization service to obtain information without the alien's written consent.
- (ii) The department shall give the household failing to provide verification the option of:
- (A) Withdrawing the application; or
  - (B) Participating without the alien member.
- (5) An applicant shall be ineligible until:
- (a) Questionable citizenship is verified; or
  - (b) Lawful alien status is verified.
- (6) The department shall accept a statement under a penalty of perjury signed by a United States citizen that the applicant is a United States citizen when:
- (a) The applicant cannot produce acceptable citizenship verification; and
  - (b) The household can reasonably explain why the verification is not available.
- (7) The department shall notify immigration and naturalization services when any household member is ineligible because that person is present in the United States in violation of a known deportation order of the Immigration and Nationality Act.
- (8) Lawfully admitted aliens who are ineligible include:
- (a) Alien visitors;
  - (b) Tourists;
  - (c) Diplomats;
  - (d) Students with temporary status; and
  - (e) Aliens not identified in subsection (3) of this section as eligible for participation in the food stamp program.

**WSR 97-09-108**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Public Assistance)

[Filed April 23, 1997, 11:35 a.m.]

Original Notice.

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

Title of Rule: WAC 388-215-1375 Deprivation—Unemployment—Defined.

Purpose: The 1994 legislature enacted RCW 74.12.036 requiring the department to eliminate the one-hundred-hour work rule for recipients of aid to families with dependent children-employable (AFDC-E). Due to federal AFDC requirements, the department was only able to suspend the one-hundred-hour rule for recipients for up to eighteen months. Public Law 104-193 replaced the AFDC program with temporary assistance for needy families (TANF), which allows states to establish their own eligibility rules. The rule change fulfills the statutory requirement of RCW 74.12.036.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.12.036.

Summary: As required by RCW 74.12.036, the department must eliminate the one-hundred-hour work rule for recipients of TANF unemployed parent program.

Reasons Supporting Proposal: (1) It is mandated by state law. (2) under the current rule, recipients are allowed to work over one hundred hours, but only for eighteen months. This rule change removes the time limit. (3) This rule change improves the chances of recipients achieving self-sufficiency by allowing the qualifying parent to work over one hundred hours per month and still maintain their program eligibility.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kevin Sullivan, WorkFirst Division, (360) 413-3093.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 388-215-1375 Deprivation—Unemployment—Defined, redefines unemployment for recipient qualifying parents under the TANF unemployed parent program, allowing them to work one hundred hours or more per month and still be considered unemployed for the purposes of program eligibility.

Proposal Changes the Following Existing Rules: The previous rule allowed recipient qualifying parents to work one hundred hours or more for up to eighteen consecutive months. This rule eliminates the eighteen month time restriction.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change does not impact small businesses. It only affects applicants and recipients of temporary assistance for needy families.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Section 201 (RCW 34.05.328) does not apply to the Department of Social and Health Services.

Hearing Location: Lacey Government Center (behind Tokyo Bento restaurant), 1009 College Street S.E., Room 104-A, Lacey, WA 98503, on May 27, 1997, at 10:00.

Assistance for Persons with Disabilities: Contact Leslie Baldwin by May 13, 1997, (360) 902-7540 or TTY (360) 902-8324.

Submit Written Comments to: Leslie Baldwin, Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, FAX (360) 902-8292, by May 27, 1997.

Date of Intended Adoption: No sooner than May 28, 1997.

April 23, 1997  
Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 96-23-021, filed 11/12/96, effective 12/13/96)

**WAC 388-215-1375 Deprivation—Unemployment—Defined.** The department shall consider the qualifying parent to be unemployed when the qualifying parent is:

- (1) A recipient; or
- (2) An applicant who is:

~~((2-Is))~~ (a) Employed less than one hundred hours a month; or  
 a particular month if(~~(+)~~) (b) Employed one hundred hours or more for  
 (~~(+))~~) the qualifying parent;  
 (i) Was employed less than one hundred hours for each  
 of the two previous months; and  
 ((~~(b))~~) (ii) Is expected to be employed less than one  
 hundred hours during the next month(~~(+ or~~  
 (~~3) Is a recipient who works one hundred hours or more~~  
 a month for up to eighteen consecutive months; or  
 (4) Participates in institutional and work experience  
 training under the JOBS program and is not otherwise em-  
 ployed over one hundred hours)).

**WSR 97-09-113**  
**WITHDRAWAL OF PROPOSED RULES**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed April 23, 1997, 11:42 a.m.]

I am withdrawing the proposed rule-making action (WSR 97-09-081) to amend WAC 352-32-235 Use of metal detectors in state parks, filed with the Office of the Code Reviser on April 22, 1997, that is scheduled to be published in the Washington State Register. The withdrawal will allow state parks to make necessary clarifications in the amendatory language. The agency intends to immediately refile the amendatory section with the clarifications.

Jim French  
 Senior Policy Analyst

**WSR 97-09-114**  
**PROPOSED RULES**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed April 23, 1997, 11:43 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 97-06-063.

Title of Rule: Use of metal detectors in state parks.

Purpose: To remove the "day use area [area]" language from WAC 352-32-235 Metal detecting.

Statutory Authority for Adoption: RCW 43.51.040 and 43.51.180(7).

Statute Being Implemented: SHB 1061 enacted during 1997 legislative session.

Summary: Amends existing rule by permitting use of metal detectors in approved state parks and removing language which restricts their use to day use areas.

Reasons Supporting Proposal: In response to proposed legislation and continued requests from metal detectorists, state parks staff are proposing to expand the public service, specifically for recreational metal detecting in state parks.

Name of Agency Personnel Responsible for Drafting: Allan Jacobson, 7150 Cleanwater Lane, 902-8606; Implementation and Enforcement: Kathryn J. Smith, 7150 Cleanwater Lane, 902-8594.

Name of Proponent: Washington State Parks and Recreation Commission in cooperation with Federation of Metal Detectors group, private and governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To provide controls on the use of metal detectors and the removal of small contemporary materials in state parks areas. This proposed amendatory section provides for "approved areas for metal detecting" according to commission's land management directions.

Proposal Changes the Following Existing Rules: Staff recommends that the commission adopt the proposed amended WAC 352-32-235 to allow metal detecting in approved campsites, in approved campgrounds. This could also allow detecting in seasonally closed campsites within opened parks.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This WAC amendment does not regulate or have an economic impact through regulations on small businesses. There are no compliance costs to small businesses.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Significant legislative rule-making requirements are not imposed on the state Parks and Recreation Commission nor has the commission voluntarily applied these requirements.

Hearing Location: Red Lion Inn, 1225 North Wenatchee Avenue, Wenatchee, WA, on May 30, 1997, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Tom Ernsberger by May 20, 1997, TDD (509) 664-3162, or (509) 662-0420.

Submit Written Comments to: Kathryn J. Smith, 7150 Cleanwater Lane, Olympia, WA 98504-265 [98504-2650], FAX (360) 586-5875, by May 23, 1997.

Date of Intended Adoption: May 30, 1997.

April 22, 1997

Jim French  
 Policy Analyst

**AMENDATORY SECTION** (Amending WSR 92-19-098, filed 9/17/92, effective 10/18/92)

**WAC 352-32-235 Use of metal detectors in state parks.** The use and operation of metal detectors, as well as the removal of small contemporary materials, is permitted within selected state parks as designated by the director, in accordance with all commission direction on land management, and subject to the conditions and limitations specified.

(1) The use of metal detectors is permitted only within specified portions of ~~((the developed day use areas of these))~~ approved state parks as posted for public reference. Metal detecting may be allowed in an approved campsite occupied by the registered detectorist and in unoccupied campsites within approved campgrounds.

(2) The use of metal detectors within a state park shall be limited to daylight hours that the park has posted as "open." No use shall be allowed during periods of seasonal or emergency park closure, except where otherwise posted.

(3) Any person wishing to use a metal detector shall so indicate to park personnel at the park where the use is to occur, by complying with the registration process provided for such purpose.

(4) Exceptional uses of metal detectors in state parks may be allowed through the issuance of a special recreation event application, available from the agency.

(5) This section does not apply to commission employees while engaged in the performance of their duties.

(6) Persons operating metal detectors in state parks and state park areas shall:

(a) Observe all laws and regulations.

(b) Never destroy or disturb park facilities, natural features, or historical or archeological resources. No item which appears to be of historical or archaeological significance, remaining from either early pioneer activity or from a native American presence, may be removed from the site at which it was found. Any such find shall be immediately reported to park personnel, and the area in which the find occurred shall not be disturbed further.

(c) Limit digging implements to ice picks, screwdrivers and probes not to exceed two inches in width and sand scoops not to exceed six inches in width and eight inches in length, containing perforations no less than one-half inch in width, to be used only on sand surfaces. Any holes dug shall be limited to six inches maximum depth and shall be immediately refilled and the surface restored to its earlier condition.

(d) Properly dispose of all found or recovered trash and litter.

(e) Conduct themselves with thoughtfulness, courtesy and consideration for others, and not interfere with other recreational activities. An operator shall not allow any emitted metal detector sound audible to other park users from the Friday before Memorial Day through Labor Day.

(7) Except as provided in WAC 352-32-310, any violation of this section is an infraction under chapter 7.84 RCW.

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**WSR 97-09-012**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Public Assistance)  
[Filed April 4, 1997, 4:41 p.m.]

Date of Adoption: April 4, 1997.

Purpose: This rule changes the food stamp disqualification penalty applied when a person refuses or fails to register for work or participate in the food stamp employment and training program and when a person quits a job; describes workfare; and clarifies food stamp employment and training program policies by creating six new sections.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-49-360 and 388-49-380.

Statutory Authority for Adoption: RCW 74.04.510.

Other Authority: Section 6 of HR 3734 (Public Law 104-193) (1996).

Adopted under notice filed as WSR 97-05-053 on February 18, 1997.

Changes Other than Editing from Proposed to Adopted Version: Change WAC 388-49-360 (1)(c): Ages fifty-one through fifty-nine without dependents.

Reason: The department inadvertently used "with" instead of "without."

Change WAC 388-49-360 (1)(3)(e): Participating in an employment and training program under TANF.

Reason: This change specifies what program is involved.

Change WAC 388-49-360 (4)(fe): Have a temporary incapacity expected to have a sixty day or more duration ~~including women in the first or second trimester or [of] pregnancy.~~

Reason: Pregnancy is covered under WAC 388-49-360 (3)(b) including the third trimester.

Change WAC 388-49-366: Lack of adequate ~~child~~ dependent care for children ~~who reach six years of age, but are under~~ through twelve years of age.

Reason: This change brings the Washington Administrative Code in compliance with federal regulations.

Change WAC 388-49-368(2): Within ~~ten~~ twenty days of a determination of failure to comply the department shall determine whether good cause exists and . . .

Reason: The department added time that both the department and the client will have to establish whether the client had a good cause reason for not complying with the food stamp requirement.

Change WAC 388-49-368(5): ~~The department shall consider a household member subject to work requirements of TANF, or UC work registration and participation requirements, the same as under FSE&T program service requirements if the requirements were comparable.~~ A person disqualified under TANF, unemployment, or refugee assistance for failure to comply with requirements comparable to FSE&T requirements, is subject to FSE&T disqualification. If a comparable FSE&T program service requirement does not exist, the ~~household member~~ person shall lose exemption status as referenced under ~~section~~ WAC 388-49-360 (3)(a)(ii), (d), (e) and (4)(a) and shall register for work.

Reason: This change clarifies this section. Persons sanctioned for noncompliance with a comparable program to

FSE&T are subject to FSE&T food stamp disqualification. If the program is not comparable to FSE&T, the person loses exempt status.

Change WAC 388-49-380(1): ~~A household where the household employment representative~~ The department shall consider a person ineligible who:

(a) Voluntarily quits his or her most recent job without good cause ~~shall be ineligible~~ if:

~~(a)~~ (i) The employment involved twenty hours or more per week or provided weekly earnings equivalent to the federal minimum wage by twenty ~~times the minimum wage~~ hours;

~~(b)~~ (ii) The quit occurred within sixty days prior to application or any time thereafter; and

~~(c)~~ ~~The household employment representative~~ (iii) At the time of the voluntary quit the person was ~~, at the time of the voluntary quit~~ required to register for work as provided under WAC 388-49-360 (with exception of subsection (3)(d) and (e) of this section), or the person is nonexempt under WAC 388-49-355; or

(b) Is the employee of the federal, state, or local government who participated in a strike against such government and is dismissed from his or her job because of participation in the strike.

Reason: The change makes it clear that (a) the job involved in a job quit was at least twenty hours at the federal minimum wage; and (b) the voluntary quit provision applies to all persons 16 through 59 years of age including able-bodied adults without children; and makes the section structurally correct.

Change WAC 388-49-380 (~~8~~7)(a): Secures new employment: ~~(i) Comparable in monthly salary to the job the person quit; (ii) Of lesser monthly salary.~~

Reason: The change removes redundant statements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 6, 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 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 4, 1997

Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3803, filed 10/26/94, effective 11/26/94)

**WAC 388-49-360 Work registration and food stamp employment and training (FSE&T) program ((services)) participation.** (1) Unless exempt, the department shall register ~~((each individual between eighteen and sixty years~~

~~of age, for employment at certification and once every twelve months thereafter. The department shall register a child reaching eighteen years of age during a certification period for work during the next recertification process)) for work and require participation in the food stamp employment and training (FSE&T) program persons:~~

~~(a) Ages sixteen through fifty-nine with dependents;  
(b) Ages sixteen and seventeen out of school, not heads-of-households; and~~

~~(c) Ages fifty-one through fifty-nine without dependents.~~

~~(2) Registration happens at certification and once every twelve months thereafter.~~

~~(3) The department shall ((register)) exempt from work registration and participation in the FSE&T program persons who are:~~

~~(a) Sixteen and seventeen((-year-old)) years of age who are not heads of households ((for employment unless the individuals)) who are:~~

~~((a)) (i) Attending school; or~~

~~((b)) (ii) Enrolled in ((an E&T)) a program under temporary assistance for needy families (TANF), a program under Job Training Partnership Act (JTPA), a program under section 236 of the Trade Act of 1974, or other state or local employment and training programs at least half time((-~~

~~(3) The department shall exempt from work registration a person:~~

~~(a));~~

~~(b) Physically or mentally unfit for employment;~~

~~((b)) (c) Responsible for the care of a dependent child under six years of age or of an incapacitated person((-~~

~~If a child's sixth birthday falls within a certification period, apply the exemption until the next recertification));~~

~~((e)) (d) Applying for or receiving unemployment compensation (UC);~~

~~((d) Subject to and participating in any work program under Titles IV A and IV C of the Social Security Act, as amended, or other E&T program;))~~

~~(e) Participating in an employment and training program under TANF;~~

~~(f) Employed or self-employed thirty hours or more per week, or receiving weekly earnings equal to the federal minimum wage, multiplied by thirty. This shall include migrant and seasonal farmworkers under contract or agreement with an employer;~~

~~((f)) (g) Enrolled as a student ((half-time or more in any recognized school, training program, or institution of higher education provided the students enrolled in higher education meet the eligibility conditions under WAC 388-49-020;~~

~~(g)) as defined in WAC 388-49-330; or~~

~~(h) Regularly participating in a drug addiction or alcoholic treatment and rehabilitation program(;~~

~~(h) Complying with work requirements imposed as a participant in any)).~~

~~(4) The department shall register for work and exempt from participation in the FSE&T program persons who:~~

~~(a) Participate in a refugee assistance program; ((or~~

~~(i) Under contract or agreement with an employer as a migrant or seasonal farmworker.~~

~~(4) The department shall register each household member required to be work-registered))~~

~~(b) Reside in an exempt area;~~

~~(c) Reside one hour or more travel distance from available FSE&T services;~~

~~(d) Do not have a mailing address or message telephone;~~

~~(e) Have a temporary incapacity expected to last sixty or more days; or~~

~~(f) Have dependent care needs that exceed the maximum amount payable by the department. The exemption shall continue until:~~

~~(i) A suitable program service is available; or~~

~~(ii) Circumstances change and monthly dependent care costs no longer exceed the department reimbursement limit.~~

~~(5) The department shall accept an applicant's statement concerning the employability of each member of the household unless the information is questionable. The department shall verify any claim for exemption the department determines questionable.~~

~~((6) The department shall:~~

~~(a) Refer persons to E&T program services, unless the person is exempted by subsection (9) of this section; and~~

~~(b) Provide E&T program services to assigned applicants or recipients, either directly or through a contracted service provider, as specified in the state plan.~~

~~(7) Persons subject to E&T services shall participate in an E&T program service for:~~

~~(a) A minimum level of participation comparable to spending approximately twelve hours a month for two months during:~~

~~(i) An eight week or two four week period or periods, each time an applicant/recipient enters into the food stamp program; or~~

~~(ii) Each twelve months of continuous participation, whichever occurs sooner.~~

~~(b) A maximum level of participation not to exceed one hundred twenty hours. In any month, hours of participation may include a combination of:~~

~~(i) An E&T program; and~~

~~(ii) Workfare program; and~~

~~(iii) Hours worked for compensation.~~

~~(8) The department shall require persons subject to E&T to:~~

~~(a) Report at a prescheduled time to the department or service provider and participate in an initial assessment interview. The department or service provider shall provide written information regarding:~~

~~(i) An E&T plan developed jointly between the department or service provider and the participant;~~

~~(ii) The grounds for noncompliance;~~

~~(iii) The sanctions for noncompliance without good cause; and~~

~~(iv) Provisions for ending noncompliance.~~

~~(b) Provide supplemental information regarding employment status or availability for work as requested;~~

~~(c) Report when referred to an employer, if the potential employment is suitable;~~

~~(d) Accept a bona fide offer of suitable employment;~~

~~(e) Complete reports as scheduled on the results of individual participation in all E&T services; and~~

~~(f) Appear for follow-up interviews.~~

~~(9) The department shall exempt from referral for E&T program services applicants or recipients who:~~

- (a) Reside in an exempt county as specified in the state plan;
  - (b) Reside one hour or more travel distance from the service provider;
  - (c) Have no mailing address or message telephone; or
  - (d) Have a temporary incapacity expected to have a sixty-day or more duration.
- (10) The department shall reimburse participants for expenses incurred in fulfilling E&T requirements as follows:
- (a) An allowance of twenty-five dollars per participant month for transportation or other costs reasonably necessary and directly related to participation in the E&T program; and
  - (b) Dependent care costs directly related to participation in the E&T program, up to standards as set forth for the food stamp E&T program.
    - (i) A participant who is part of an AFDC household and resides in an area with work programs under Titles IV-A and IV-C of the Social Security Act, as amended, is not eligible for dependent care reimbursement under the E&T program.
    - (ii) An individual's participation in E&T activities shall be deferred if dependent care costs would exceed the published standards for E&T dependent care. Deferral shall continue until:
      - (A) A suitable component is available; or
      - (B) Circumstances change and monthly dependent care costs no longer exceed the limit.
    - (iii) Any portion of child care costs reimbursed may not be claimed as an expense and used in calculating the child care deduction.
- (11) If a household member fails to comply with work registration or E&T program requirements without good cause, the department shall:
- (a) Disqualify the entire household if the noncompliant member is the household employment representative; or
  - (b) Disqualify the noncompliant person if that person is not the household employment representative. The department shall treat the disqualified member as an ineligible household member.
- (12) The department shall determine whether or not good cause exists before initiating sanction for refusal or failure to register for work or participate in E&T program services. The following circumstances shall constitute good cause for failure to register for work or participate in E&T program services. The following circumstances are not inclusive:
- (a) Illness of the participant;
  - (b) Illness of another household member requiring the presence of the member;
  - (c) A household emergency;
  - (d) The unavailability of transportation; and
  - (e) Lack of adequate child care for children who reached six years of age, but are under twelve years of age.
- (13) Within ten days of a determination of failure to comply the department shall determine whether good cause exists and, if not, provide notice to the household that contains:
- (a) The particular act of noncompliance;
  - (b) The proposed period of disqualification;
  - (c) Notification that the individual or household may re-apply at the end of the disqualification period; and
  - (d) Information describing the action the individual or household may take to end or avoid the sanction.

(14) The disqualification period for noncompliance shall be for two months or until the noncompliant member moves from the household, becomes exempt for reasons other than subsection (3)(c) and (d) of this section, or complies, whichever is earlier.

(a) If the noncompliant member moves from the household, the household may resume participation.

(b) If the noncompliant member moves from the household and joins another household:

(i) As the household employment representative, the entire new household is ineligible for the remainder of the disqualification period; or

(ii) As other than the household employment representative, the department shall consider the noncompliant individual as an ineligible household member of the new household for the remainder of the disqualification period.

(c) If a new person, who has not committed a violation joins a sanctioned household:

(i) As the household employment representative, the period of ineligibility ends; or

(ii) As other than the household employment representative, the disqualification continues.

(15) The department shall consider a household member subject to work requirements of Titles IV-A or IV-C of the Social Security Act, as amended, or UC work registration and participation requirements, who fails to comply with such requirements, the same as under E&T program service requirements if the requirements were comparable. If a comparable E&T program service requirement does not exist, the household member shall lose exemption status as referenced under subsection (3)(d) of this section and shall register for work.

(16) At the end of the two-month disqualification period, a household may apply to re-establish eligibility. The individual may re-establish eligibility during the disqualification period if the reason for disqualification is corrected.

(17) Persons subject to reporting requirements who lose exemption status due to any reportable change of circumstance shall be work-registered by the department when the case is processed.

(18) Persons who lose their exemption status due to a nonreportable change in circumstance shall be work-registered at their next recertification.

(19) A registrant moving out of the jurisdiction of the department's local office where the registrant is registered shall reregister at the department local office in the new location.

(20) The household shall be held liable for any overissuances resulting from erroneous information given by the household member or the household's authorized representative.

(21) Each household has a right to a fair hearing to appeal a denial, reduction, or termination of benefits due to:

(a) A determination of nonexempt status; or

(b) Failure to comply with work registration and employment and training program requirements; or

(c) Determination of noncompliance with a comparable work program under Titles IV-A and IV-C of the Social Security Act, as amended, or UC requirement.

~~(22) The department of social and health services shall administer the program and may contract E&T services through other agencies.))~~

#### NEW SECTION

**WAC 388-49-362 Food stamp employment and training program responsibilities.** The department shall require persons in the FSE&T program to:

- (1) Comply with FSE&T program service requirements;
- (2) Report to the department or service provider and participate as required;
- (3) Provide information regarding employment status or availability for work as requested;
- (4) Report when referred to an employer; and
- (5) Accept a bona fide offer of suitable employment.

#### NEW SECTION

**WAC 388-49-364 Food stamp employment and training program services.** (1) The department of social and health services shall administer the FSE&T program and provide FSE&T program services either directly or through a contracted service provider.

(2) Persons required to participate in the FSE&T program may receive one or more of the following services:

- (a) Job search activities;
  - (b) General education development (GED) services; or
  - (c) English as a second language (ESL) services.
- (3) A maximum level of participation shall not exceed one hundred twenty hours in a month. Hours of participation may include a combination of FSE&T services and hours worked for compensation (in cash or in kind).
- (4) The department shall provide written information to FSE&T participants regarding:
- (a) The FSE&T program;
  - (b) The grounds for disqualification;
  - (c) The disqualification penalties; and
  - (d) The provisions for ending a disqualification.

#### NEW SECTION

**WAC 388-49-366 Food stamp employment and training good cause.** (1) The department shall determine if a person has good cause for refusing or failing to:

- (a) Register for work; or
  - (b) Participate in the FSE&T program.
- (2) The department may determine that a person has good cause for reasons including, but not limited to:
- (a) Illness of the person;
  - (b) Illness of another household member requiring the presence of the member;
  - (c) A household emergency;
  - (d) The unavailability of transportation; or
  - (e) Lack of adequate dependent care for children six through twelve years of age.

#### NEW SECTION

**WAC 388-49-368 Food stamp employment and training disqualifications.** (1) If a person refuses or fails to comply with work registration and participate in the FSE&T program without good cause as found in WAC 388-49-366(2), the department shall disqualify the noncompliant

person. The department shall treat the disqualified person as an ineligible household member.

(2) Within twenty days of a determination of failure to comply the department shall determine whether good cause exists and, if not, provide notice to the person that contains:

- (a) The particular act of noncompliance;
  - (b) The proposed period of disqualification;
  - (c) Notification that the person may re-apply at the end of the disqualification period; and
  - (d) Information describing the action the person may take to end the disqualification.
- (3) The disqualification period shall be:
- (a) For the first failure to comply, one month and until the failure to comply ceases;
  - (b) For the second failure to comply, three months and until the failure to comply ceases; and
  - (c) For the third or subsequent failure to comply, six months and until the failure to comply ceases.

(4) If a person becomes exempt under WAC 388-49-360(4), a disqualification ends when the person:

- (a) Has served the one, three, or six month portion of the disqualification penalty; and
  - (b) Is registered for work.
- (5) A person disqualified under TANF, unemployment compensation, or refugee assistance for failure to comply with requirements comparable to FSE&T requirements, is subject to FSE&T disqualification. If a comparable FSE&T program service requirement does not exist, the person shall lose exemption status as referenced under WAC 388-49-360(3)(a)(ii), (d), (e) and (4)(a) and shall register for work.

(6) At the end of a disqualification period, a person may apply to re-establish eligibility.

(7) Each person has a right to a fair hearing to appeal a denial, reduction, or termination of benefits regarding:

- (a) A determination of nonexempt status;
- (b) Failure to register for work; or
- (c) Noncompliance with FSE&T, or comparable program, participation requirements.

#### NEW SECTION

**WAC 388-49-369 Food stamp employment and training payments.** (1) The department shall pay a person's actual expenses, up to the department limit, that are necessary for the person to participate in the FSE&T program. A person may receive payment for:

- (a) Transportation related costs; and
  - (b) Dependent care costs for each dependent six through twelve years of age.
- (2) Dependent care payments:
- (a) Shall not be made for a dependent thirteen years of age or older unless the dependent is:
    - (i) Physically and/or mentally incapable of caring for himself or herself; or
    - (ii) Under court order.
  - (b) Shall not be made when any member in the food stamp household provides the dependent care; and
  - (c) Can not be claimed as an expense and used in calculating the dependent care deduction.

**AMENDATORY SECTION** (Amending Order 3803, filed 10/26/94, effective 11/26/94)

**WAC 388-49-380 Voluntary quit.** (1) ~~((A household where the household employment representative))~~ The department shall consider a person ineligible who:

(a) Voluntarily quits his or her most recent job without good cause ~~((shall be ineligible))~~ if:

~~((a))~~ (i) The employment involved twenty hours or more per week or provided weekly earnings equivalent to the federal minimum wage by twenty ~~((times the minimum wage))~~ hours;

~~((b))~~ (ii) The quit occurred within sixty days prior to application or any time thereafter; and

~~((c) The household employment representative))~~ (iii) At the time of the voluntary quit, the person was ~~((at the time of the voluntary quit,))~~ required to register for work as provided under WAC 388-49-360 (with exception of subsection (3)(d) and (e) of this section), or the person is nonexempt under WAC 388-49-335; or

(b) Is an employee of the federal, state, or local government who participated in a strike against such government and is dismissed from his or her job because of participation in the strike.

(2) Good cause for voluntarily quitting employment includes the following:

(a) Circumstances included under WAC ~~((388-49-360(12)))~~ 388-49-366(2);

(b) The employment is unsuitable as defined under WAC 388-49-370;

(c) Discrimination by an employer based on age, race, sex, color, ~~((handicap))~~ religious belief, national origin, ~~((or))~~ political belief, marital status, or the presence of any sensory, mental, or physical disability or other reasons in RCW 49.60.180;

(d) Work demands or conditions rendering continued employment unreasonable, such as working without being paid on schedule;

(e) Acceptance by the ~~((household employment representative))~~ person of employment or enrollment of at least half time in any recognized school, training program, or institution of higher education including fulfillment of the provisions under WAC 388-49-330, requiring the ~~((household employment representative))~~ person to leave employment;

(f) Acceptance by any other household member of employment or enrollment at least half time in any recognized school, training program, or institution of higher education in another county or similar political subdivision requiring the household to move thereby requiring ~~((the household employment representative))~~ any other member to leave employment;

(g) Resignations by persons under sixty years of age recognized by the employer as retirement;

(h) Acceptance of a bona fide offer of employment of twenty hours or more a week or where the weekly earnings are equivalent to the federal minimum wage multiplied by twenty hours which, because of circumstances beyond the control of the ~~((household employment representative))~~ person, subsequently either does not materialize or results in employment of twenty hours or less a week or weekly

earnings of less than the federal minimum wage multiplied by twenty hours; and

(i) Leaving a job in connection with patterns of employment where workers frequently move from one employer to another, such as migrant farm labor or construction work.

(3) A household where ~~((the household employment representative))~~ a person voluntarily ~~((quit their))~~ quits his or her most recent job shall not be ineligible if the circumstances of the employment involve:

(a) Changes in employment status resulting from reduced hours of employment while working for the same employer;

(b) Termination of a self-employment enterprise; or

(c) Resignation from a job at the demand of an employer.

(4) ~~((An employee of the federal government or of a state or local government who participates in a strike against the government and is subsequently dismissed because of participation in the strike, shall be considered to have voluntarily quit a job without good cause.))~~ The person shall have primary responsibility for providing verification of good cause for voluntary quit. If the household and the department are unable to obtain verification, the department shall not deny the household access to the program.

(5) If a quit was without good cause, the ~~((department shall:~~

~~(a) Deny a household's application for a period of ninety days beginning with the day of quit; or~~

~~(b) For participating households, disqualify the household for three months. The disqualification shall start the first of the month following the adverse action period.~~

~~(6) The household shall have primary responsibility for providing verification. If the household and the department are unable to obtain verification, the department shall not deny the household access to the program.))~~ person is disqualified:

(a) For the first quit, one month and until the person complies with subsection (7) of this section;

(b) For the second quit, three months and until the person complies with subsection (7) of this section; and

(c) For the third or subsequent quit, six months and until the person complies with subsection (7) of this section.

(6) For persons residing in exempt areas under WAC 388-49-360(4), a disqualification ends when a person:

(a) Has served the one, three, or six month portion of the disqualification penalty; and

(b) Complies with subsection (7)(a) of this section.

(7) The ~~((household))~~ person may re-establish eligibility ~~((during))~~ after the disqualification, if otherwise eligible, and the person ~~((who caused the disqualification)):~~

(a) Secures new employment ~~((=~~

(i) Comparable in monthly salary to the job the person quit; or

(ii) Of a lesser monthly salary, that is expected to improve the person's future employment prospects.))

(b) ~~((Leaves the household))~~ In nonexempt areas, is participating in the food stamp employment and training program;

(c) ~~((Becomes exempt from work registration for reasons other than under WAC 388-49-360 (3)(e) and (d); or~~

(d) ~~Complies with requirements to correct the disqualification))~~ Is participating in workfare; or

(d) Becomes exempt other than under WAC 388-49-360 (3)(d) and (e).

~~(8) If ((the noncompliant member)) a disqualified person moves from the household and joins another household((~~

~~(a) As the household employment representative, the entire new household is ineligible for the remainder of the disqualification period; or~~

~~(b) As other than the household employment representative)), the department shall consider the ((noncompliant individual)) person as an ineligible household member of the new household for the remainder of the disqualification period.~~

~~((9) If a new person who has not committed a violation joins a sanctioned household:~~

~~(a) As the household employment representative the period of ineligibility ends; or~~

~~(b) As other than the household employment representative, the disqualification continues.))~~

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 388-49-385 Food stamp workfare.** (1) Workfare is a program available to persons eighteen through fifty years of age without dependents, that gives persons the opportunity to maintain eligibility for food stamp benefits.

(2) Workfare consists of:

(a) For the first month, job search activities or unpaid work with a public or private nonprofit agency; and

(b) Subsequent months, unpaid work with a public or private nonprofit agency.

(3) The department determines the hours that a person must participate in unpaid work with a public or private nonprofit agency.

(4) Workfare hours when added to compensated hours worked may not exceed thirty hours a week.

(5) The department shall pay for a person's actual expenses, up to the department limit, that are necessary for the person to participate in workfare.

**WSR 97-09-015  
PERMANENT RULES  
SPOKANE COUNTY AIR  
POLLUTION CONTROL AUTHORITY**  
[Filed April 7, 1997, 4:20 p.m.]

Date of Adoption: April 3, 1997.

Purpose: To amend criminal prosecution procedures and criminal penalty procedures. To add prohibition of false statements and of monitoring tampering. To clarify and improve consistency with enabling state law, chapter 70.94 RCW.

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article II—General Provisions.

Statutory Authority for Adoption: RCW 70.94.141.

Adopted under notice filed as WSR 97-05-045 on February 18, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 3, 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 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
April 3, 1997  
Kelle R. Vigeland  
Environmental Engineer

**PROPOSED AMENDMENTS TO SCAPCA REGULATION I,  
ARTICLE II, SECTIONS 2.04, 2.08, & 2.11**

AMENDATORY SECTION (Amending WSR 92-07-068, filed 3/16/92)

**SECTION 2.04 VIOLATIONS**

A. At least thirty days prior to the commencement of any formal enforcement action under ~~((Chapter)) RCW 70.94.430 ((RCW)) or ((Chapter)) RCW 70.94.431, ((RCW))~~ the Authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of Chapter 70.94 RCW, or any regulation, ordinance, or resolution in force pursuant thereto, ((the State Law or of this Regulation)) alleged to be violated and the facts alleged to constitute a violation thereof, and may include an order directing that necessary corrective action be taken within a reasonable amount of time. In lieu of an order, the Board or the Control Officer may require that the alleged violator or violators appear before the ~~((Hearings Board))~~ Board of Directors for a hearing. Every Notice of Violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action.

B. The Control Officer may, in place of an order or hearing after service of a notice of violation ~~((and expiration of reasonable and/or required period of time without correction))~~, request the County Prosecutor to prosecute a criminal action against the violator.

AMENDATORY SECTION (Amending rule section adopted before SCAPCA followed 34.05.320 and 34.05.380)

**SECTION 2.08 FALSIFICATION OF STATEMENTS OR DOCUMENTS, ~~((UNLAWFUL ALTERATION OF))~~ AND TREATMENT OF DOCUMENTS ~~((DISPLAY OF DOCUMENTS, AND THEIR REMOVAL OR MUTILATION PROHIBITED))~~**

A. No person shall willfully make a false or misleading statement to the Board or their authorized representative as to any matter within the jurisdiction of the Board.

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B. No person shall reproduce or alter, or cause to be reproduced or altered, any order, registration certificate, or other paper issued by the Authority (~~(Agency)~~) if the purpose of such reproduction or alteration is to evade or violate any provision of Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto (~~(this Regulation or any other law)~~).

C. Any order or registration certificate required to be obtained by Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto, (~~(this Regulation)~~) shall be available for review on the premises designated on the order or certificate.

D. In the event the Authority requires a notice to be displayed, it shall be posted. No person shall mutilate, obstruct or remove any notice unless authorized to do so by the (~~Board~~) Authority.

E. No person shall make any false material statement, representation or certification in any form, in any notice or report required under Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

F. No person shall render inaccurate any monitoring device or method required under Chapter 70.94 RCW, or any regulation, ordinance, resolution, permit, or order in force pursuant thereto.

AMENDATORY SECTION (Amending WSR 92-07-069, filed 3/16/92)

## SECTION 2.11 PENALTIES

### A. Criminal Penalties

1. Any person who knowingly violates any of the provisions of Chapter 70.94 RCW or any regulation, ordinance, or resolution in force pursuant thereto, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment in county jail or by both fine and imprisonment as provided by Chapter 70.94 RCW for each separate violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

2. Any person who negligently releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by Chapter 70.94 RCW.

3. Any person who knowingly releases into the ambient air any substance listed by the Department of Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a crime and upon conviction is subject to punishment by a fine or by imprisonment or both as provided by Chapter 70.94 RCW.

4. Any person who knowingly fails to disclose a potential conflict of interest under Chapter 70.94 RCW is

guilty of a gross misdemeanor, and upon conviction thereof, is subject to a fine as provided by Chapter 70.94 RCW

### B. Other Penalties

1.a. In addition to or as an alternative (~~(alternate)~~) to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 RCW or any of the rules and regulations of the Department of Ecology or this Authority in force under this chapter may incur a civil penalty in an amount not to exceed that provided by Chapter 70.94 RCW for each violation. Each such violation is a separate and distinct offense, and in case of a continuing violation, each day's continuance is a separate and distinct violation.

b. Any person who fails to take action as specified by an order issued pursuant to Chapter 70.94 RCW or this Regulation is liable for a civil penalty in an amount not to exceed the penalty authorized by Chapter 70.94 RCW for each day of continued noncompliance.

2. Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 (~~(RCW)~~) on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

3. Each act of commission or omission which procures, aids, or abets in the violation is a violation under the provisions of this section and subject to the same penalty.

4. The penalty is due and payable on the later of:

a. Thirty days after receipt of the notice imposing the penalty;

b. Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

c. Thirty days after receipt of the notice of decision of the Pollution Control Hearings Board of Washington if the penalty is appealed.

~~((when the person incurring the same receives a notice in writing from the Control Officer of the Authority or his designee describing the violation with reasonable particularity and advising such person that the penalty is due unless a request is made for a hearing to the Pollution Control Hearings Board as provided in Chapter 43.21B RCW. When a request is made for a hearing, the penalty is due and payable only upon completion of all review proceedings and the issuance of a final order affirming the penalty in whole or part.))~~ If the (~~(amount of such)~~) penalty is not paid within thirty days after it becomes due and payable, (~~(and a request for a hearing has not been made.))~~) the (~~(Board or Control Officer.))~~ Authority may (~~(shall)~~) bring an action to recover such penalty in the Superior Court of Spokane County. The penalties provided by Chapter 70.94 RCW and this section are imposed pursuant to (~~(Chapter)~~) RCW 43.21B.300 (~~(RCW)~~).

5. All penalties recovered under this section by the Authority shall be (~~(are)~~) payable to the treasury of the Authority and credited to its funds.

6. To secure the penalty incurred under this section, (~~(the State of)~~) the Authority shall have a lien on any vessel used or operated in violation of this chapter which shall be enforced as provided in RCW (~~(Chapter)~~) 60.36.050 (~~(RCW)~~).

7. In addition to other penalties provided by this section, persons falsifying emission data or other information used to set fees, or persons required to pay emission, registration, permit, or any other fee payable to the Authority who are more than ninety days late with such payments are subject to a penalty equal to three times the amount of the original fee. The penalty shall be in addition to the fee.

**WSR 97-09-016**  
**PERMANENT RULES**  
**SPOKANE COUNTY AIR**  
**POLLUTION CONTROL AUTHORITY**

[Filed April 7, 1997, 4:25 p.m.]

Date of Adoption: April 3, 1997.

Purpose: To amend existing fee schedules for registered sources, notice of construction review, asbestos abatement, and agricultural burning permits. To amend fee waiver provisions.

Citation of Existing Rules Affected by this Order: Amending SCAPCA Regulation I, Article X, Fees and Charges.

Statutory Authority for Adoption: RCW 70.94.141, [70.94.]151, [70.94.]152, [70.94.]162, and [70.94.]650.

Adopted under notice filed as WSR 97-05-046 on February 18, 1997.

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 6, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 April 3, 1997

Kelle R. Vigeland  
 Environmental Engineer

**PROPOSED AMENDMENTS TO SCAPCA REGULATION I,**  
**ARTICLE X - FEES AND CHARGES**

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

**SECTION 10.01 DEFINITIONS**

When used in Regulation I of the Spokane County Air Pollution Control Authority:

A. Air Operating Permit Source means any facility required to have an operating permit pursuant to Chapter 173-401 WAC.

B. Burn Out Oven means any oven used to clean or remove dirt, grease, grime, paint, varnish, or any other

unwanted substance or contaminant, from any object by using controlled incineration.

C. Criteria Pollutant means any one of the following: fine particulate matter (PM10), volatile organic compounds (VOC), nitrogen oxides, sulfur oxides, ozone, lead, or carbon monoxide.

D. Emission Fee means the component of a registration fee or operating permit fee which is based on total actual annual emissions of criteria and toxic air pollutants. In the case of a new or modified source or a source being registered initially, the emission fee is based on projected emissions as presented in an approved Notice of Construction or registration form.

E. Emission Reduction Credit means a credit granted to a source for a voluntary reduction in actual emissions per 173-400-131 WAC.

F. Registration Period means the twelve month period for which an annual fee has been assessed pursuant to Section 10.06.B.(1) or 10.06.B.(2).

G. Source means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous properties, and are under the control of the same person, or persons under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

H. Significant Emissions means, in reference to a net emissions increase or the potential of a source to emit, any of the following pollutants, at a rate of emissions equal to or greater than any one of the following rates:

- increased emissions of 10 tons per year of any one toxic air pollutant; or,
- increased emissions of 25 tons per year of two or more toxic air pollutants; or,

<u>Pollutant</u>	<u>Tons/Year</u>
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate Matter (PM)	25
Fine particulate matter (PM10)	15
Volatile organic compounds	40
Lead	0.6
Fluorides	3
Sulfuric Acid Mist	7
Hydrogen sulfide (H <sub>2</sub> S)	10
Total reduced sulfur (including H <sub>2</sub> S)	10
Reduced sulfur compounds (including (H <sub>2</sub> S)	10
Municipal waste combustor organics (measured as total tetra-through-octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO <sub>2</sub> and hydrogen chloride)	40

I. Stage I Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a transport tank into a stationary storage tank.

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J. Stage II Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a stationary storage tank into a motor vehicle fuel tank.

K. Total Actual Annual Emissions means the total of all criteria and toxic air pollutant emissions for the most recent complete (~~calendar~~) year that is available to SCAPCA.

L. Toxic Air Pollutant means any toxic air pollutant (TAP) listed in WAC 173-460-150 or 173-460-160. Toxic air pollutant does not include particulate matter or volatile organic compounds as generic classes of substances.

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

**SECTION 10.04 FEE WAIVER**

A. Except for air operating permit sources (~~(subject to the operating permit program, pursuant to RCW 70.94.161)~~), the Control Officer may waive payment of (~~any~~) all, or a portion, of any fee or service charge required by this Article upon a showing deemed sufficient by the Control Officer that payment of the fee would cause financial hardship upon the applicant.

B. The Control Officer may identify categories of sources, or groups of sources within a category, in Section 10.04.C. with similar emissions units and processes where the Control Officer determines that any of the following conditions exist:

1. Facility-wide emission rates are less than 1 ton per year of air contaminants; or
2. There are no specific regulations on the control of air contaminants; or
3. Compliance with control requirements is readily accomplished through nontechnical self-inspection techniques; or
4. The primary purpose for registration, pursuant to Article IV, is to inventory air contaminant emissions.

As categories are so identified, the Control Officer may waive one-half of the annual registration fee for owners or operators of individual facilities who provide emission inventory data, and other required information relative to compliance with applicable regulations, within 30 days of the request by the Authority, in a format acceptable to the Authority. In so doing, the owner or operator shall certify to the best of his/her knowledge, on forms provided by the Authority, that the emission inventory data is accurate and the facility is in compliance with applicable regulations. Owners or operators who fail to return the information within 30 days of the request will not qualify for a fee waiver under this Section. Notwithstanding the provision of required data by the owner or operator, the Authority reserves the right to conduct inspections of the facility.

C. The following categories of sources are eligible for the fee waiver specified in Section 10.04.B. However individual sources are not eligible if one or more Notices of Violation have been issued by the Authority, pursuant to Section 2.04 of Regulation I, to the facility in the previous 36 month period:

<u>Source Category</u>	<u>Rating</u>
Surface Coating Operations	<1 ton/yr VOC emitted

Gasoline Dispensing Facilities	Exempt from stage II vapor recovery requirements
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively	<10' BTU/hr heat input
From Natural Gas Combustion	
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively	<10' BTU/hr heat input
From Other Fossil Fuel Combustion	
Dry Cleaning Plants	<140 gal/yr solvent consumption
Waste Oil Burners	<500,000 BTU/hr heat input
Tire Recapping Facilities	All units in the category
Grain Elevators	All units with no on-site processing capability

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

**SECTION 10.06 REGISTRATION AND OPERATING PERMIT FEES FOR AIR CONTAMINANT SOURCES**

A. All sources required by Article IV, Section 4.01 to be registered, all air operating permit sources (~~(subject to the operating permit program pursuant to RCW 70.94.161)~~), and all sources required by Article V, Section 5.02 to obtain an approved Notice of Construction and Application for Approval shall pay an annual fee for each year, or portion of each year, during which it operates. Fees received pursuant to the registration program or the operating permit program shall not exceed the actual costs of program administration.

B. The annual fee for each source shall be determined as follows:

- (1) For sources that are not subject to Section 10.06.B. (3), (4), or (5) of this regulation and which emit less than 5 tons per year of criteria and toxic air pollutants:
  - (a) a flat fee of \$160 (~~(150)~~); and
  - (b) a \$30 fee for each stack and other emission point, not to exceed \$600 (~~(300)~~); and
  - (c) an emission fee of \$20 (~~(10)~~) per ton of each criteria and toxic air pollutant; and
  - (d) an additional fee of \$150 for each source which operated at least one incinerator or burn out oven during the registration period; ~~and(-)~~

(e) an additional fee of \$100 if the source is required by the Authority to submit an annual emissions inventory to the Washington Emission Data System (WEDS).

- (2) For sources that are not subject to Section 10.06.B. (3), (4), or (5) of this regulation and which emit 5 tons or more per year of criteria and toxic air pollutants, but less than 100 tons per year of any one criteria pollutant:

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- (a) a flat fee of \$215 ~~((200))~~; and
- (b) a \$30 fee for each stack and other emission point, not to exceed \$600 ~~((300))~~; and
- (c) an emission fee of \$20 ~~((10))~~ per ton of each criteria and toxic air pollutant; and
- (d) an additional fee of \$150 for each source which operated at least one incinerator or burn out oven during the registration period; ~~and((-))~~
- (e) an additional fee of \$100 if the source is required by the Authority to submit an annual emissions inventory to the Washington Emission Data System (WEDS).

(3) For air operating permit sources ~~((subject to the air operating permit program pursuant to Chapter 173-401 WAC))~~, a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), determined pursuant to Section 10.06.D of this regulation, plus:

- (a) for bulk gasoline loading terminals, Standard Industrial Classification 5171, a fee of \$11,500;
- (b) for secondary aluminum facilities, Standard Industrial Classification 3341, a fee of \$21,100;
- (c) for municipal solid waste incineration facilities, Standard Industrial Classification 4953, a fee of \$20,400;
- (d) for military bases, Standard Industrial Classification 9711, a fee of \$17,850; or
- (e) for sources not listed in (a), (b), (c), or (d) above
  - i. which have total annual actual emissions of less than 50 tons, a fee of \$1,350;
  - ii. which have total annual actual emissions of greater than or equal to 50 tons but less than 100 tons, a fee of \$2,025; or
  - iii. which have total actual annual emissions of 100 tons or greater, a fee of \$3,650.

(4) For affected units under Section 404 of the Federal Clean Air Act (42 USC 7401 et seq):

- (a) a fee of \$50 per hour of time expended in carrying out the fee eligible activities specified in RCW 70.94.; and
- (b) a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), determined pursuant to Section 10.06.D of this regulation.

(5) For gasoline dispensing facilities which are not subject to Section 10.06.B.(3) of this regulation, a flat fee of \$165 ~~((150))~~.

C. The Board of Directors shall annually review the fee schedule for air operating permit sources ~~((subject to the operating permit program pursuant to RCW 70.94.161))~~ and projected costs to implement the requirements of RCW 70.94.161 and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to recover program costs. Such review shall include opportunity for public review and comment on the projected costs and any changes to the operating permit fee schedule. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board of Directors determines that the total projected fee revenue is either significantly excessive or deficient for this purpose, then the Board of Directors shall amend the fee schedule to more accurately recover program costs.

D. Individual shares of the assessment pursuant to RCW 70.94.162(3) shall be determined by the following formula:

$$I = \frac{F_i}{F_T} \times A_e$$

Where,

I is the individual share of the assessment, and

F<sub>i</sub> is the individual fee assessed pursuant to Section 10.06.B. (3) or (4) of this regulation, and

A<sub>e</sub> is the total assessment pursuant to RCW 70.94.-162(3), and

F<sub>T</sub> is the sum of all the individual fees assessed pursuant to Sections 10.06.B. (3) and (4) of this regulation.

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

**SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY SOURCE**

A. For all projects required by Article V to file a Notice of Construction and Application for Approval (NOC) or a Notice of Intent to Install and Operate a Temporary Source, a filing fee of \$150 shall be paid at the time of filing the application.

B. IN ADDITION to the filing fee provided in ~~((“A” above))~~ Section 10.07.A, a plan review ~~((and approval))~~ fee shall be paid according to ~~((one of))~~ the following:

(1) An equipment fee based on one of the following:

(a) Fuel Burning Equipment With or Without Air Pollution Control Equipment:

<u>Design Input Size (MMbtu/hr)</u>	<u>Fee</u>
.4 < 5	\$200
5 < 10	\$250
10 < 20	\$300
20 < 50	\$350
50 < 100	\$400
100 < 250	\$500
250 < 500	\$650
500 < UP	\$850

~~((2))~~ (b) Refuse Burning Equipment Including Air Pollution Control Equipment:

<u>Capacity (ton/day)</u>	<u>Fee</u>
0 < 12	\$1,000
12 < 250	\$1,500
250 < UP	\$2,500

~~((3))~~ (c) Process Equipment and/or Air Pollution Control Equipment or Uncontrolled Process Equipment:

<u>Actual ft³/min</u>	<u>Fee</u>
0 < 5,000	\$150
5,000 < 20,000	\$250
20,000 < 50,000	\$350
50,000 < 100,000	\$450
100,000 < 250,000	\$550
250,000 < 500,000	\$650
500,000 < UP	\$800

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~~((4))~~ (d) Gasoline dispensing facilities:

<u>Equipment Being Installed</u>	<u>Fee</u>
<u>Annual facility gasoline throughput of less than 1.5 million gallons</u>	\$150
<u>Annual facility gasoline throughput of 1.5 million gallons or greater</u>	\$250
<del>((Stage I Vapor Recovery</del>	<del>\$ 50</del>
<del>Stage II Vapor Recovery</del>	<del>\$125</del>
<del>Stage I and Stage II</del>	<del>\$150))</del>

~~((5))~~ (e) For sources not included in ~~((1), (2), (3), or (4) above)~~ the above categories, an hourly fee of \$50.00 per hour of time expended in plan review ~~(and approval)~~.

(2) In addition, for any new source of air pollution to be constructed and anticipated to produce significant emissions, a significant emissions review fee of \$250.

(3) In addition, for any new or modified source of air pollution which requires review pursuant to Chapter 173-460 WAC, a toxic air pollutant review fee of \$100.

C. For sources applying for more than one emission point under one Notice of Construction application, as allowed in Section 5.02.C, the applicant shall pay, according to Sections 10.07.A and 10.07.B, one filing fee, plus one significant emissions review fee, if applicable, plus one toxic air pollutant review fee, if applicable, plus ~~((a review))~~ an equipment fee for each emission unit and/or air pollution control system being installed or modified.

D. For sources seeking a change in conditions of an order of approval pursuant to Section 5.10.B. of this regulation, the fee shall be one half the current fee for a Notice of Construction and Application for Approval for that type of source, including the filing fee according to Section 10.07.A and the applicable fees according to Section 10.07.B or ~~((250))~~ 350 which ever is less.

E. Where a compliance investigation is conducted pursuant to Section 5.12 of this regulation, the compliance investigation fee shall be equal to 2 times the applicable fees according to Section 10.07.B ~~((fee required in Section 5.03 of this regulation))~~.

~~((F. IN ADDITION to the other fees and costs herein above required any new source of air pollution to be constructed and anticipated to produce SIGNIFICANT EMISSIONS shall pay an additional fee of \$250.))~~

~~((G. IN ADDITION to the other fees and costs herein above required, any new or modified source of air pollution which requires review pursuant to Chapter 173-460 WAC shall pay an additional fee of \$100.))~~

AMENDATORY SECTION (Amending WSR 93-19-043, filed 9/8/93)

**SECTION 10.09 ASBESTOS**

Any owner or operator of a demolition or renovation activity required by federal regulation or Regulation I to notify the Authority prior to removal or demolition, or required by Federal Regulation to be approved or inspected by the Authority, shall ~~((give required notice and))~~ pay a fee according to the ~~((following:))~~ 10.09.A, or 10.09.B below. The fee shall accompany the required notice.

A. Commercial

~~((a))~~1) If more than 80 linear meters (260 linear feet), 15 square meters (160 square feet), or one cubic meter (35

cubic feet) of regulated asbestos-containing material (RACM) as defined in Section 9.02.R of this regulation ~~((asbestos))~~ is to be removed a \$150 fee is required. (This includes the demolition fee, if applicable.)

~~((b))~~2) If less than or equal to 80 linear meters (260 linear feet), 15 square meters (160 square feet), or one cubic meter (35 cubic feet) but more than or equal to 3 linear meters (10 linear feet), one square meter (11 square feet), one cubic foot of regulated asbestos-containing material (RACM) as defined in Section 9.02.R of this regulation ~~((asbestos))~~ is to be removed a \$75 fee is required. (This includes the demolition fee, if applicable.)

~~((e))~~3) ~~((If less than 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot of asbestos is to be removed or if the activity is a demolition not requiring asbestos removal a))~~ A \$40 fee is required for any demolition activity, as defined in Section 9.02.F of this regulation.

(4) Registered sources may elect to submit an annual notice for work conducted in their own facility by their own employees in place of individual notifications. A fee of \$150 shall accompany the annual notice.

B. Residential (residential buildings having less than four dwellings)

~~((d))~~1) If more than or equal to 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot of regulated asbestos-containing material (RACM) as defined in Section 9.02.R of this regulation ~~((asbestos))~~ is to be removed from a private residence a \$40 fee is required. (This includes the demolition fee, if applicable.)

~~((e))~~2) No notice or fee is required for private residences if the amount of asbestos to be removed is less than 3 linear meters (10 linear feet), one square meter (11 square feet), or one cubic foot.

(3) For demolition activity involving more than or equal to 80 linear meters (260 linear feet), 15 square meters (160 square feet), or one cubic meter (35 cubic feet) of regulated asbestos containing material (RACM), as defined in Section 9.02.R, where there is no RACM removal before demolition, a fee of \$40 is required.

(4) For any demolition activity where at least 15 square meters (160 square feet) of Category II nonfriable asbestos containing material, as defined in Section 9.02.D, remains in the facility, where there is a high probability as determined by the Control Officer, that the material will become crumbled, pulverized, or reduced to powder, a fee of \$40 is required.

~~((f))~~ Registered sources may elect to submit an annual notice, for work conducted in their own facility by their own employees rather than individual notifications. A fee of \$150 shall accompany the annual notice.))

AMENDATORY SECTION (Amending WSR 95-15-021, filed 7/10/95)

**SECTION 10.12 AGRICULTURAL BURNING FEES**

A. For agricultural burning permits issued by the Authority pursuant to Section 6.11 of this regulation, a fee shall be paid by the applicant according to the following:

1. Portion for local administration: ~~((the greater of a minimum fee of \$12.50 per year per farm, based on burning~~

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~~up to and including 10 acres or equivalent, or~~) a ((variable)) fee of \$1.25 per acre; and

2. The state administration and research portions, ((as provided in)) pursuant to 70.94.650 RCW and WAC 173-430-040 (3)(b).

B. Refunds of fees collected by the Authority may be provided at the discretion of the Authority for portions of acreage, of equivalent, unburned, provided that the total adjusted fee is no less than \$25.

C. Acreage equivalency shall be in accordance with the determination of the agricultural burning practices and research task force pursuant to WAC 173-430-040 (3)(d).

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 10, 1997

Merry A. Kogut, Manager  
Rules and Policies Assistance Unit

NEW SECTION

**WAC 388-215-1660 Unmarried minor parents required to live with adult relative or legal guardian.** (1) The department shall deny assistance to an unmarried minor parent, by excluding the needs of that individual in determining the need and payment amount of the assistance unit, if that individual and that individual's child do not reside in one of the living situations described in subsection (2) of this section.

(2) An unmarried minor parent and the minor parent's child must live in either:

(a) The home of a parent, legal guardian, or other adult relative of the minor parent; or

(b) A facility or home licensed under RCW 74.15 that provides a supportive and supervised living arrangement requiring residents to learn parenting skills, a maternity home, other appropriate adult-supervised living arrangement, or the client's current or proposed living arrangement if the department determines it is appropriate, if:

(i) The minor parent has no living parent, legal guardian, or other adult relative that can be located, or if the parent, legal guardian, or other adult relative does not meet applicable state criteria to act as the individual's legal guardian or otherwise does not want the minor parent to reside with them; or

(ii) The minor parent or minor parent's child is being or has been subjected to serious physical, emotional or sexual harm, abuse or exploitation in the home of the parent, legal guardian, or other adult relative; or

(iii) Substantial evidence exists of an act or failure to act by the parent, legal guardian, or other adult relative that presents an imminent or serious harm to the minor parent or minor parent's child if they resided there; or

(iv) The department determines that it is in the best interest of the minor child to waive the requirement in subsection (2)(a) of this section.

(3) For the purposes of this section, an unmarried minor parent's living arrangement is not appropriate if, at the time of the minor parent's eligibility determination, the other natural parent of the minor parent's child:

(a) Resides in the home;

(b) Is at least eighteen years of age; and

(c) The minor parent and the adult parent meet the age criteria for the offenses of rape of a child in the first, second or third degree as set forth in RCW 9A.44.073, 9A.44.076 and 9A.44.079.

(4) The income of a minor parent who is denied benefits under this section shall be allocated under WAC 388-218-

**WSR 97-09-024  
PERMANENT RULES  
OLYMPIC AIR  
POLLUTION CONTROL AUTHORITY**

[Filed April 9, 1997, 11:11 a.m.]

Reviser's note: This permanent filing has been rejected because it was filed earlier than the date stated as the date of adoption in the notice, WSR 97-06-079, filed on March 3, 1997. The agency will refile this permanent filing after May 10, 1997.

**WSR 97-09-029  
PERMANENT RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)  
(Public Assistance)

[Filed April 10, 1997, 11:22 a.m.]

Date of Adoption: April 10, 1997.

Purpose: To comply with the federal requirement in Public Law 104-193 that temporary assistance for needy families (TANF) be denied to unmarried minor parents who are not living with an adult relative or in an appropriate adult-supervised setting as determined by the department.

Citation of Existing Rules Affected by this Order: Amending WAC 388-215-1660 Unmarried minor parents required to live with adult relative or legal guardian.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.055.

Other Authority: Public Law 104-193, Section 103 (a)(1) (1996).

Adopted under notice filed as WSR 97-06-073 on February 28, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 1, 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.

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1640 as if the minor parent were ineligible due to sanction or noncooperation.

**WSR 97-09-030**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 (Public Assistance)  
 [Filed April 10, 1997, 11:24 a.m.]

Date of Adoption: April 10, 1997.

Purpose: Federal regulations no longer mandate that a certification period can only be up to six months for households consisting of a parent and minor child that was granted separate household status.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-160 Certification periods.

Statutory Authority for Adoption: RCW 74.04.510, 7 CFR 273.10 (f)(2).

Adopted under notice filed as WSR 97-06-098 on March 4, 1997.

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 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.  
 April 10, 1997

Merry A. Kogut, Manager  
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3987, filed 6/28/96, effective 8/1/96)

**WAC 388-49-160 Certification periods.** The department shall certify households:

- (1) Receiving assistance to coincide with the assistance review or to the end of the assistance period, whichever is earlier;
- (2) Consisting of migrants up to three months;
- (3) Without earned income in which all members are disabled or all members are disabled or elderly for up to twelve months;
- (4) Without earned income in which all members are elderly for up to twenty-four months;
- (5) With little likelihood of change for six months;
- (6) Reporting monthly with earned income for up to twelve months;

(7) Reporting monthly with recent work history for up to six months((-); and

(8) ~~((Consisting of an individual with a minor child living with the individual's parent or sibling and purchasing and preparing food separately per WAC 388-49-190 (1)(c) up to six months; and~~

(9)) All other households for up to three months.

**WSR 97-09-031**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 (Public Assistance)

[Filed April 10, 1997, 11:26 a.m., effective July 1, 1997]

Date of Adoption: April 10, 1997.

Purpose: Include as ineligible household members, persons who have a felony conviction with an element of possession, use, or distribution of a controlled substance occurring after August 22, 1996.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-190.

Statutory Authority for Adoption: RCW 74.04.510, Public Law 104-193, Section 115 (1996).

Adopted under notice filed as WSR 97-06-097 on March 4, 1997.

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 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1997.

April 10, 1997  
 Merry A. Kogut, Manager  
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 96-22-103, filed 11/6/96, effective 12/7/96)

**WAC 388-49-190 Household concept.** (1) The department shall consider the following as households:

- (a) A person living alone;
- (b) Persons living together and purchasing or preparing meals together; or
- (c) A permanently disabled and elderly person unable to prepare meals provided the:
  - (i) Person's spouse shall be included in the household; and

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(ii) Income of other individuals, except the person's spouse, living with the person does not exceed one hundred sixty-five percent of the poverty level.

(2) The department shall consider the following as households regardless of the purchase and prepare arrangements:

(a) Parents and their natural, adoptive, or stepchildren twenty-one years of age or younger.

(b) Person seventeen years of age or younger under parental control of an adult other than their parent, and the adult who is maintaining the control; or

(c) Spouses who live together.

(3) The department shall consider the following persons living with the household as nonhousehold members who, if otherwise eligible, may qualify as a separate household:

(a) Roomers;

(b) Live-in attendants; or

(c) Persons sharing living quarters with the household who purchase food and prepare meals separately from the household.

(4) The department shall consider the following persons living with the household as ineligible household members:

(a) Persons disqualified for intentional program violation;

(b) Persons disqualified because of noncompliance with work requirements as described under WAC 388-49-360;

(c) Persons who are ineligible aliens;

(d) Persons disqualified for failure to apply for or provide a Social Security number;

(e) Persons who fail to sign the application attesting to their citizenship or alien status; ((or))

(f) Fleeing felons; or

(g) Persons convicted of a felony with an element of possession, use, or distribution of a controlled substance occurring after August 22, 1996.

**WSR 97-09-035  
PERMANENT RULES  
DEPARTMENT OF  
FINANCIAL INSTITUTIONS**

[Filed April 11, 1997, 4:15 p.m.]

Date of Adoption: April 11, 1997.

Purpose: (1) To lower the hourly fee for application review, investigation and examination from \$90 per hour to \$65 per hour; and (2) to establish an annual assessment fee.

Citation of Existing Rules Affected by this Order: Amending WAC 208-630-020.

Statutory Authority for Adoption: RCW 42.320.040, 31.45.200.

Adopted under notice filed as WSR 97-06-092 on March 3, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 3, amended 1, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 3, amended 0, repealed 1.

Effective Date of Rule: Thirty-one days after filing.  
April 11, 1997  
John L. Bley  
Director

**AMENDATORY SECTION (Amending WSR 96-03-059, filed 1/12/96, effective 2/12/96)**

**WAC 208-630-020 Schedule of fees paid by licensees and applicants.** (1) The director shall collect the following fees:

(a) ~~((A fee of ninety dollars per employee hour expended for services plus actual expenses for review of application and investigation for:~~

~~(i) New license application;~~

~~(ii) Additional locations;~~

~~(iii) Change of control;~~

~~(iv) Relocation of office;~~

~~(v) Voluntary or involuntary liquidation of licensee;~~

~~(vi) Small loan endorsement application;~~

~~(b) The director may require a lump sum payment in advance to cover the anticipated cost of review and investigation of the activities described in (a) of this subsection. If the lump sum payment required under this section exceeds the actual amounts derived in (a) of this subsection, the amount in excess shall be refunded.~~

~~(2) The fee for examinations described in WAC 50-30-010 (2) and (3) shall be ninety dollars per employee hour expended.) Charges for costs incurred by the division for review and investigation of applications;~~

(b) An annual assessment charge; and

(c) Charges for examinations described in WAC 208-630-015.

(2) Fees must be paid promptly when due but no later than thirty days after receipt of any billing from the division.

**NEW SECTION**

**WAC 208-630-021 Application review and investigation fee.** (1) The director shall collect a fee of sixty-five dollars per employee hour expended for services, plus actual expenses, for review of application and investigation of:

(a) New license applications;

(b) Additional locations;

(c) Change of control;

(d) Relocation of office;

(e) Voluntary or involuntary liquidation of licensee; and

(f) Small loan endorsement applications.

(2) The director may require a lump sum payment in advance to cover the anticipated cost of review and investigation of the activities described in this section. If the lump sum payment required exceeds the actual amount derived in subsection (1) of this section, the amount in excess shall be refunded.

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**NEW SECTION**

**WAC 208-630-022 Annual assessment charge.** (1)

The director will charge each licensee an annual assessment at the rate set forth in subsection (2) of this section. Assessments for a calendar year will be computed on total volume of transactions as of December 31 of the previous calendar year. For licensees with a fiscal year of January through December, annual assessments are due on or before April 15. For licensees with a fiscal year other than that stated above, annual assessments are due one hundred five days after the close of the licensee's fiscal year. For the calendar year 1997, annual assessments for all licensees are due on or before June 30, 1997.

(2) The annual assessment rate is:

(a) For check cashers:

(i) If the volume of checks cashed is one million dollars or less, there is no annual assessment;

(ii) If the volume of checks cashed is over one million dollars, the annual assessment is five hundred dollars per licensed location.

(b) For check sellers:

(i) If the volume of checks sold is one million dollars or less, there is no annual assessment;

(ii) If the volume of checks sold is over one million dollars, the annual assessment is five hundred dollars per licensed location.

(c) For licensees with small loan endorsements, in addition to (a) and/or (b) of this subsection:

(i) If the volume of small loans made is one million dollars or less, there is no annual assessment;

(ii) If the volume of small loans made is over one million dollars, the annual assessment is five hundred dollars per licensed location.

(3) For purposes of this section, "volume" includes all transactions made under this chapter and chapter 31.45 RCW by a Washington licensed check cashier or check seller at all licensed locations.

**NEW SECTION**

**WAC 208-630-023 Examination fees.** The fee for examinations described in WAC 208-630-015 shall be sixty-five dollars per employee hour expended.

**WSR 97-09-036  
PERMANENT RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed April 14, 1997, 10:40 a.m.]

Date of Adoption: April 14, 1997.

Purpose: Current rules are unclear and inconsistent with regard to who may perform an impairment rating. Changes are necessary to clarify the language and make the rules consistent.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-200, 296-20-210, 296-20-220, and 296-23-265.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030, 51.32.112, 51.32.114, 51.36.015.

Adopted under notice filed as WSR 97-01-123 on December 19, 1996.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 7, amended 4, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, amended 4, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 8, 1997

Gary Moore

Director

**AMENDATORY SECTION** (Amending WSR 91-07-008, filed 3/8/91, effective 5/1/91)

**WAC 296-20-200 General information.** (1) The department of labor and industries has promulgated the following rules and categories to provide a comprehensive system of classifying unspecified permanent partial disabilities in the proportion they reasonably bear to total bodily impairment. The department's objectives are to reduce litigation and establish more certainty and uniformity in the rating of unspecified permanent partial disabilities pursuant to RCW 51.32.080(2).

(2) The following system of rules and categories directs the ~~((examining physician's))~~ examiner's attention to the actual conditions found and establishes a uniform system for conducting rating examinations and reporting findings and conclusions in accord with broadly accepted medical principles.

The evaluation of bodily impairment must be made by ~~((medical))~~ experts authorized to perform rating examinations. This system recognizes and provides for this. After conducting the examination, the ~~((examining physician))~~ examiner will choose the appropriate category for each bodily area or system involved in the particular claim and include this information in the report. The ~~((physician))~~ examiner will, therefore, in addition to describing the worker's condition in the report, submit the conclusions as to the relative severity of the impairment by giving it in terms of a defined condition rather than a personal opinion as to a percentage figure. In the final section of this system of categories and rules are some rules for determining disabilities and the classification of disabilities in bodily impairment is listed for each category. These last provisions are for the department's administrative use in acting upon the ~~((medical))~~ expert opinions which have been submitted to it.

(3) In preparing this system, the department has complied with its duty to enact rules classifying unspecified disabilities in light of statutory references to nationally

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recognized standards or guides for determining various bodily impairments. Accordingly, the department has obtained and acted upon sound established medical opinion in thus classifying unspecified disabilities in the reasonable proportion they bear to total bodily impairment. In framing descriptive language of the categories and in assigning a percentage of disability, careful consideration has been given to nationally recognized medical standards and guides. Both are matters calling for the use of expert medical knowledge. For this reason, the meaning given the words used in this set of categories and accompanying rules, unless the text or context clearly indicates the contrary, is the meaning attached to the words in normal medical usage.

(4) The categories describe levels of physical and mental impairment. Impairment is anatomic or functional abnormality or loss of function after maximum medical rehabilitation has been achieved. This is the meaning of "impairment" as the word is used in the guides mentioned above. This standard applies to all persons equally, regardless of factors other than loss of physical or mental function. Impairment is evaluated without reference to the nature of injury or the treatment therefore, but is based on the functional loss due to the injury or occupational disease. The categories have been framed to include conditions in other bodily areas which derive from the primary impairment. The categories also include the presence of pain, tenderness and other complaints. Workers with comparable loss of function thus receive comparable awards.

(5) These rules and categories (WAC 296-20-200 through 296-20-690) shall only be applicable to compensable injuries occurring on or after the effective date of these rules and categories.

(6) These rules and categories (WAC 296-20-200 through 296-20-690) shall be applicable only to cases of permanent partial disability. They have no applicability to determinations of permanent total disability.

**AMENDATORY SECTION** (Amending Order 88-09, filed 6/24/88)

**WAC 296-20-210 General rules.** These general rules establish a uniform standard for conducting examinations and submitting reports of examinations. These general rules must be followed by ~~((physicians))~~ doctors who make examinations or evaluations of permanent bodily impairment.

(1) Examinations for the ~~((medical))~~ determination of the extent of permanent bodily impairment shall be made only by ~~((physicians))~~ doctors currently licensed ~~((to practice medicine))~~ in medicine and surgery (including osteopathic and podiatric) or dentistry, and department-approved chiropractors. A chiropractic evaluation of permanent impairment may be performed only where the worker has been clinically managed by a chiropractor.

(2) Whenever an examination is made, the ~~((physician))~~ examiner shall record, among other pertinent information, the complete history as obtained from the person examined; the complete history of past injuries and diseases; the complaints; the age, sex, height and weight; x-ray findings and diagnostic tests made or reviewed in connection with the examination; the diagnosis; and all findings, including negative findings, in all bodily areas and systems where a detailed review of systems reveals past or present com-

plaints. The ~~((physician))~~ examiner shall record his conclusions as to: Whether the residuals of the injury are fixed; whether treatment is required for the injury and, if so, any treatment shall be described. If the ~~((examining physician))~~ examiner finds residuals of the injury are fixed, he shall record the appropriate category or categories of permanent impairment for diagnoses attributable to the industrial injury or occupational disease. Conditions or impairments not attributable to the industrial injury or occupational disease shall be described and diagnosed in the report, with a description of how they affect the person examined and the appropriate category of permanent impairment where possible.

(3) The ~~((examining physician))~~ examiner shall not assign a percentage figure for permanent bodily impairment described in the categories established herein.

(4) Reports shall specify diagnoses and medical terms as listed in current procedural terminology (CPT), current medical information and terminology (CMIT), international classification of diseases adopted (ICDA), or standard nomenclature of disease, except when otherwise specified in these rules.

(5) Workers who are scheduled for disability examinations are allowed to bring with them an accompanying person to be present during the physical examination. The accompanying person cannot be compensated in any manner, except that language interpreters may be necessary for the communication process and may be reimbursed for interpretative services.

The department may designate those conditions under which the accompanying person is allowed to be present during the disability examination process.

**AMENDATORY SECTION** (Amending Order 79-18, filed 11/30/79, effective 1/1/80)

**WAC 296-20-220 Special rules for evaluation of permanent bodily impairment.** (1) Evaluations of permanent bodily impairment using categories require uniformity in procedure and terminology. The following rules have been enacted to produce this uniformity and shall apply to all evaluations of permanent impairment of an unspecified nature.

(a) Gradations of relative severity shall be expressed by the words "minimal," "mild," "moderate" and "marked" in an ascending scale. "Minimal" shall describe deviations from normal responses which are not medically significant. "Mild," "moderate" and "marked" shall describe ranges of medically significant deviations from normal responses. "Mild" shall describe the least severe third. "Moderate" shall describe the middle third. "Marked" shall describe the most severe third.

(b) "Permanent" describes those conditions which are fixed, lasting and stable, and from which within the limits of medical probability, further recovery is not expected.

(c) "Impairment" means a loss of physical or mental function.

(d) "Total bodily impairment," as used in these rules, is the loss of physical or mental function which is essentially complete short of death.

(e) The ~~((examining physician))~~ examiner shall not assign a percentage figure for permanent bodily impairment described in the categories established herein.

(f) The method of evaluating impairment levels is by selection of the appropriate level of impairment. These descriptive levels are called "categories." Assessments of the level of impairment are to be made by comparing the condition of the injured workman with the conditions described in the categories and selecting the most appropriate category.

These rules and categories for various bodily areas and systems provide a comprehensive system for the measurement of disabling conditions which are not already provided for in the list of specified permanent partial disabilities in RCW 51.32.080(1). Disabilities resulting from loss of central visual acuity, loss of an eye by enucleation, loss of hearing, amputation or loss of function of the extremities will continue to be evaluated as elsewhere provided in RCW 51.32.080.

The categories have been classified in percentages in reasonable proportion to total bodily impairment for the purpose of determining the proper award. Provision has been made for correctly weighing the overall impairment due to particular injuries or occupational disease in cases in which there are preexisting impairments.

(g) The categories of the various bodily areas and systems are listed in the order of increasing impairment except as otherwise specified. Where several categories are given for the evaluation of the extent of permanent bodily impairment, the impairments in the higher numbered categories, unless otherwise specified, include the impairments in the lesser numbered categories. No category for a condition due to an injury shall be selected unless that condition is permanent as defined by these rules.

The ~~((examining physician))~~ examiner shall select the one category which most accurately indicates the overall degree of permanent impairment unless otherwise instructed. Where there is language in more than one category which may appear applicable, the category which most accurately reflects the overall impairment shall be selected.

The categories include appropriate subjective complaints in an ascending scale in keeping with the severity of objective findings, thus a higher or lower category is not to be selected purely on the basis of unusually great or minor complaints.

(h) When the examination discloses a preexisting permanent bodily impairment in the area of the injury, the ~~((examining physician))~~ examiner shall report the findings and any category of impairment appropriate to the ~~((workman's))~~ worker's condition prior to ~~((his))~~ the industrial injury in addition to the findings and the categories appropriate to the ~~((workman's))~~ worker's condition after the injury.

(i) Objective physical or clinical findings are those findings on examination which are independent of voluntary action and can be seen, felt, or consistently measured by ~~((examining physicians))~~ examiners.

(j) Subjective complaints or symptoms are those perceived only by the senses and feelings of the person being examined which cannot be independently proved or established.

(k) Muscle spasm as used in these rules is an involuntary contraction of a muscle or group of muscles of a more than momentary nature.

(l) An involuntary action is one performed independently of the will.

(m) These special rules for evaluation of permanent bodily impairment shall apply to all examinations for the evaluation of impairment, in accordance with RCW 51.32.080, for the body areas or systems covered by or enumerated in WAC 296-20-230 through 296-20-660.

(n) The rules for evaluation of each body area or system are an integral part of the categories for that body area or system.

(o) In cases of injury or occupational disease of bodily areas and/or systems which are not included in these categories or rules and which do not involve loss of hearing, loss of central visual acuity, loss of an eye by enucleation or loss of the extremities or use thereof, ~~((examining physicians))~~ examiners shall determine the impairment of such bodily areas and/or systems in terms of percentage of total bodily impairment.

(p) The words used in the categories of impairments, in the rules for evaluation of specific impairments, the general rules, and the special rules shall be deemed, unless the context indicates the contrary, to have their general and accepted medical meanings.

(q) The rating of impairment due to total joint replacement shall be in accordance with the limitation of motion guidelines as set forth in the "Guides to the Evaluation of Permanent Impairment" of American Medical Association, with department of labor and industries acknowledgement of responsibility for failure of prostheses beyond the seven year limitation.

**AMENDATORY SECTION** (Amending WSR 95-04-056, filed 1/26/95, effective 3/1/95)

**WAC 296-23-265 Who may perform independent medical examinations ~~((examiner))~~? ~~((1))~~ Independent medical examinations must be performed in accordance with ~~WAC 296-20-200~~ by examiners approved by the department and licensed to perform medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, chiropractic, or dentistry except:**

~~(a) Attending physicians licensed to perform medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or dentistry may perform an impairment rating examination for a worker under their care at the direction of the state fund or self-insurer.~~

~~(b) The independent medical examination may be performed by a board certified specialist licensed to perform medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or dentistry selected by the department or the self-insurer if the worker does not live in Washington, Oregon, or Idaho.~~

~~(c) The independent medical examination may be performed by a treating physician in a department approved chronic pain management program accredited by the commission on accreditation of rehabilitation facilities. The examiner must be licensed to perform medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or dentistry.~~

~~(2) All other examiners who wish to do independent medical examinations of workers under Title 51 RCW, whether purchased by the department or self insurers, must:~~

~~(a) Submit a completed department application to the medical director at the department of labor and industries; and~~

~~(b) Receive the medical director's approval to be an "approved examiner."~~

~~(3) Approved examiners will be listed on the department's approved examiners list. Examiners may be suspended or removed from the approved examiners list by the medical director. Such examiners shall not receive worker referrals from the department or self insurers.~~

~~(4) The factors the medical director may consider in approving or disapproving or suspending examiners include, but are not limited to, any one or a combination of the following:~~

- ~~(a) Board certification;~~
- ~~(b) Complaints from workers about the conduct of the examiner;~~
- ~~(c) Disciplinary proceedings or actions;~~
- ~~(d) Experience in direct patient care in the area of specialty;~~
- ~~(e) Ability to effectively convey and substantiate medical opinions and conclusions concerning workers;~~

~~(f) Quality and timeliness of reports; and~~  
~~(g) Geographical need of the department and self insurer.~~

~~(5) Examiners must be available and willing to testify at the department fee schedule rate on behalf of the department, worker, or employer.~~

~~(6) Complaints from workers about examiner conduct during an independent medical examination must be promptly forwarded from self insurer and department staff to the office of the medical director.~~

~~(7) The standards for independent medical examiners; the application for approved examiner status and maximum fee schedule for performing examinations are published in a medical examiners' handbook available from the Office of the Medical Director, Department of Labor and Industries, Olympia, WA 98504.~~

~~(8) Fees for independent medical examinations are determined by the dollar value published in the medical examiners' handbook.) Doctors in Washington, Oregon, or Idaho who wish to perform independent medical examinations for the department or self-insurers providing coverage to workers covered under Title 51 RCW must be approved examiners. Independent medical examinations must be performed according to WAC 296-20-200 by the following:~~

Doctors licensed to practice:

<u>Examiner is:</u>	<u>Medicine &amp; surgery</u>	<u>Osteopathic medicine &amp; surgery</u>	<u>Podiatric medicine &amp; surgery</u>	<u>Chiropractic</u>	<u>Dentistry</u>
<u>In Washington, Oregon, or Idaho and is approved by department to perform IMEs</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>
<u>Not in Washington, Oregon, or Idaho and is a board certified specialist</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>
<u>The treating doctor in a department approved chronic pain management program</u>	<u>Yes</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>

NEW SECTION

**WAC 296-23-26501** How do doctors become approved examiners? Doctors must submit a completed department application to the provider review and education unit at the Department of Labor and Industries, P.O. Box 44322, Olympia, WA 98504 and receive the medical director's approval. Approved examiners will be included on the department's approved examiners list.

NEW SECTION

**WAC 296-23-26502** Where can doctors get an application to become an approved examiner and other information about independent medical examinations? The application for approved examiner status and the standards for independent medical examiners are published in the *Medical Examiners' Handbook* available from the department of labor and industries.

NEW SECTION

**WAC 296-23-26503** What factors does the medical director consider in approving, suspending or removing doctors from the approved examiners list? The medical director may consider several factors in approving, disapproving, or suspending examiners. Examples include, but are not limited to:

- (1) Board certification;
- (2) Complaints from workers about the conduct of the examiner (see WAC 296-23-26506);
- (3) Disciplinary proceedings or actions;
- (4) Experience in direct patient care in the area of specialty;
- (5) Ability to effectively convey and substantiate medical opinions and conclusions concerning workers;
- (6) Quality and timeliness of reports;
- (7) Geographical need of the department and self-insurer;

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(8) Availability and willingness to testify on behalf of the department, worker, or employer; and

(9) Acceptance of the department fee schedule rate for testimony.

#### NEW SECTION

**WAC 296-23-26504 What happens if an examiner is suspended or removed from the approved examiner list by the medical director?** Examiners who are suspended or removed from the approved examiners list will not receive examination referrals from the department or self-insurers. In addition, suspended or removed examiners will not be reimbursed by the department or self-insurer for examinations performed at the request of other referral sources.

#### NEW SECTION

**WAC 296-23-26505 Is there a fee schedule for independent medical examinations?** The maximum fee schedule for performing independent medical examinations is published in the *Medical Examiners' Handbook* available from the department.

#### NEW SECTION

**WAC 296-23-26506 Can a worker file a complaint about an independent medical examiner's conduct?** Workers can send written complaints about the examiner's conduct during an independent medical examination to the self-insurer or department. Complaints received by the self-insurer and department staff must be promptly forwarded to the provider review and education unit. Based on the nature of the complaint, the department may refer the complaint to the department of health.

#### NEW SECTION

**WAC 296-23-267 When may attending doctors perform impairment rating examinations?** Attending doctors may perform impairment rating examinations for workers under their care at the direction of the state fund or self-insurer if licensed to perform:

- Medicine and surgery;
- Osteopathic medicine and surgery;
- Podiatric medicine and surgery;
- Dentistry; or
- Chiropractic (chiropractors must be on the approved examiners list).

Attending doctors performing rating exams must be available and willing to testify on behalf of the department, worker, or employer and accept the department fee schedule rate for testimony.

**WSR 97-09-037**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed April 14, 1997, 4:56 p.m.]

Date of Adoption: April 14, 1997.

Purpose: To bring the standards for calculating hours worked by part-time community college faculty for purposes

of the teachers' retirement system into conformity with similar standards promulgated by the legislature and the Employment Security Department.

Citation of Existing Rules Affected by this Order:  
Amending WAC 415-112-330.

Statutory Authority for Adoption: RCW 41.50.050.

Adopted under notice filed as WSR 97-05-010 on February 7, 1997.

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 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 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 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 14, 1997

John Charles

Director

AMENDATORY SECTION (Amending WSR 91-21-084, filed 10/18/91, effective 11/18/91)

**WAC 415-112-330 ((Amount of) Calculating service credit for plan I K-12 employees. ~~(((1) This section shall apply only to persons who became members prior to October 1, 1977.~~**

~~((2))~~ For plan I members who are employed (~~as classroom teachers~~) by a school district, a school year shall consist of one hundred eighty days. One year of service credit shall be granted to a plan I member who is employed as a classroom teacher for one hundred forty-four or more days during a school year. A fractional year of credit shall be granted to a plan I member who is employed for at least twenty days but less than one hundred forty-four days during a school year. The fraction shall be that produced by using the days employed as the numerator and one hundred eighty as the denominator. ~~((In the absence of an indication in the contract or elsewhere concerning what constitutes one day of employment))~~

(1) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, a plan I classroom teacher shall be granted one day of credit for every seven hours ((the teacher works and for which the teacher is compensated)) of compensated employment.

~~(((3) For members who are employed as community college academic employees as defined by chapter 28B.52 RCW, a school year shall consist of at least three academic quarters or two semesters during a fiscal year. Academic employees shall be granted one full year of service credit for eighty percent of the full-time annual load as defined in their institution's negotiated agreement. In the absence of a~~

definition of full-time annual load in the agreement, the official board-adopted college policy will apply. Percents of load of at least eleven percent (reported as not less than twenty days per fiscal year) and less than eighty percent (reported as eighty percent of the individual college academic calendar or one hundred thirty four days per fiscal year, whichever is greater) will be applied pro rata. Percent of load will be converted to days for institution reporting and for retirement benefit calculation purposes. Nonacademic employees will have their service credit reported and benefits calculated based on actual days worked. Where there is no definition of full-time load in either the collective bargaining agreement or the official board-adopted college policy, service credit will be calculated pursuant to subsections (4) and (5) of this section.

(4) For members who are employed as community college classroom instructors, a school year shall consist of at least three academic quarters or two semesters during a fiscal year. Such a classroom instructor shall be granted one year of service credit for teaching thirty six quarter hours or twenty four semester hours. A fractional year of credit shall be granted to such instructors who teach at least five but less than thirty six quarter hours, or at least three but less than twenty four semester hours. The fraction shall be that produced by using the quarter hours taught as the numerator and forty five as the denominator, or the semester hours taught as the numerator and thirty as the denominator.

(5) Members who are not employed as classroom instructors and who are employed for one hundred forty four or more days during a fiscal year shall be granted one year of service credit. A fractional year of credit shall be granted to a member who is employed for at least twenty days but less than one hundred forty four days. The credit granted shall be the fraction produced by using the days employed as the numerator and one hundred eighty as the denominator. Where there is no indication in the contract or elsewhere concerning what constitutes one day of employment,))

(2) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, plan I K-12 employees other than school district classroom teachers will earn one day of credit ((shall be granted)) for every eight hours ((the member works and for which the member is)) of compensated((:—Provided, That counselors and librarians who are employed by a community college district in an instructional position as defined in RCW 41.32.010 (1)(a)(ii) and paid on an hourly rate shall be granted one day of credit for every seven hours the member works and for which the member is compensated.

(6) The fact that a member is granted a fractional year of service credit under this section shall not be determinative as to whether that member was employed less than full time in a year used to determine benefits under RCW 41.32.497, 41.32.498, and 41.32.520, for purposes of determining whether the member held a bona fide part-time position and what earnable compensation the member would have received under RCW 41.32.011) employment.

## NEW SECTION

**WAC 415-112-335 Calculating service credit for part-time community and technical college employees.** Most community and technical colleges employ academic employees under contracts expressed in terms of a certain number of contact hours, which are usually limited to actual time spent in the classroom. Most academic positions require more time to be spent providing services to the college than are reflected in the contact hours. However, actual hours worked are not submitted by the academic employees nor recorded by the college. This subsection adopts a method for estimating hours of work in order to determine membership eligibility and service credit in plan I and plan II. This estimate is to be used solely for that purpose. The estimate is not a representation by the department of actual hours worked and is not to be used as a basis for calculating other benefits or salary for technical college and community college academic employees.

(1) **Plan I.** In order to estimate the number of days worked by a TRS I technical college or community college faculty academic employee for a particular month, the college will:

(a) Determine the number of working days in the month as defined by the college's adopted academic calendar;

(b) Determine the part-time workload for the employee. The part-time workload is the percentage of the part-time employees' weekly in-class teaching hours to the weekly in-class teaching hours required of a full-time instructor in that employee's discipline at the college; and

(c) Multiply the number of working days in the month by the academic employee's part-time workload.

The resulting number is an estimate of days worked by the academic employee during the month. The college will report this estimate to the department for the sole purpose of determining plan I service credit and/or membership eligibility.

(2) **Plan II.** Determining service credit for plan II requires the college to estimate hours worked rather than days worked. To estimate hours worked, the college uses the steps described in subsection (1) of this section and takes two additional steps:

(a) Determine the number of hours in a full-time work day. In the absence of a definition of the number of hours in a full-time work day in the collective bargaining agreement or elsewhere, the college will use seven hours;

(b) Multiply the estimated days worked as determined in subsection (1) of this section by the number of hours in a full-time work day.

The resulting number is an estimate of hours worked by the academic employee during the month. The college will report this estimate to the department for the sole purpose of determining plan II service credit and/or membership eligibility.

(3) **Definitions.** "In-class teaching hours" means contact classroom and lab hours in which full-time or part-time academic employees are performing contractually assigned teaching duties. The in-class teaching hours shall not include any duties performed in support of, or in addition to, those contractually assigned in-class teaching hours.

**WSR 97-09-045**  
**PERMANENT RULES**  
**DEPARTMENT OF TRANSPORTATION**  
 [Order 168—Filed April 15, 1997, 3:13 p.m.]

Date of Adoption: April 15, 1997.

Purpose: To make minor changes to chapter 468-16 WAC to improve its effectiveness since its implementation.

Citation of Existing Rules Affected by this Order: Amending chapter 468-16 WAC, Prequalification of contractors.

Statutory Authority for Adoption: RCW 47.01.101, 47.28.030, and 47.28.070.

Adopted under notice filed as WSR 97-05-007 on February 7, 1997.

Changes Other than Editing from Proposed to Adopted Version: WAC 468-16-180 (3)(e), delete entry and substitute the following: (e) A finding of noncompliance and refusal to agree to take corrective action, and/or failure to implement agreed upon corrective action to comply with equal employment opportunity or women's, minority and disadvantaged business enterprise requirements.

WAC 468-16-180 (3)(f), delete entry and substitute the following: (f) Repeated findings of noncompliance with equal employment opportunity or women's, minority, and disadvantaged business enterprise requirements.

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 11, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 2, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 15, 1997  
 S. A. Moon  
 Deputy Secretary  
 for Operations

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-030 Definitions.** The definitions set forth in this section apply throughout this chapter and have the following meanings, unless the context clearly indicates otherwise.

(1) **Above standard** - Performance ranging from standard to that meeting the lower range of superior.

(2) **Active contractor** - A contractor who has participated in department activities through maintaining required

prequalification and having a history of performing department work.

(3) **Affiliate** - An associate, subordinate associate, or subsidiary firm which may involve the intermingling of funds, officers, or officials of one or more firms.

(4) **Assistant secretary for field operations support** - The primary representative of the secretary of transportation responsible for the highway construction program and for the qualification of contractors employed thereon.

(5) **Below standard** - Performance bordering on standard extending to the limits of inadequate.

(6) **Bidding proposal** - A form issued by the department for the submission of a contractor's bid containing spaces for entering bid amounts, authentication, and other data.

(7) **Capacity multiplier** - The number 5.0 multiplied by a firm's net worth to calculate its initial maximum bidding capacity.

(8) **Conditional qualification** - A temporary qualification status given a contractor who has received a "below standard" or "inadequate" overall rating or for other reasons which result in restrictions to a contractor's ability to bid on department work.

(9) **Contractor** - Any person, partnership, firm, corporation or joint venture who or which, in the pursuit of an independent business, undertakes, offers to undertake, or submits a bid to perform construction work for the department.

(10) **Department** - The department of transportation.

(11) **Endorser** - The ((~~district~~)) region operations engineer or immediate supervisor of the construction project engineer, or project architect or, under specified conditions, the ((~~district~~)) region administrator responsible for reviewing contractor's performance reports.

(12) **Inadequate** - Performance failing completely to meet the prescribed standard or requirement.

(13) **Integrity** - The quality of being of sound moral principle, uprightness, honesty, and sincerity.

(14) **Joint venture** - Two or more persons, sole proprietorships, companies, corporations, or combinations thereof, entering into an agreement for a business venture such as a construction project.

(15) **Limited work class** - A work classification given when a contractor lacks the total experience, organization, equipment, or skills required to perform the entire range of work within a work class.

(16) **Maximum capacity rating** - The total value of uncompleted prime contract work a contractor is permitted to have under contract at any time.

(17) **Performance inquiry** - A request made to a contractor's previous employers for an evaluation of the quality and manner of that contractor's performance.

(18) **Performance rating** - A numerical rating which is equal to the grand total of the evaluation elements of the prime contractor's performance report used to measure and quantify the quality of contractor performance.

(19) ~~(Performance score - The product of the performance rating when multiplied by a numerical factor which may be used to calculate prequalification ratings.~~

(20) **Prequalification** - The process of evaluating a contractor's financial status, organizational structure, experience, equipment, integrity, and other required qualifications

to determine a contractor's responsibility and suitability for performing department work. This term is used interchangeably with qualification.

~~((21))~~ **(20) Prime contractor performance report** - A report prepared to evaluate the performance of a prime contractor upon completion of, or at an interim period during a department project which is used ~~((as a guide))~~ to adjust a prime contractor's qualification status.

~~((22))~~ **(21) Project estimate** - A document prepared by the department establishing the estimated value of all items of work, the total estimated value of work within each class of work, and the estimated total value of a project.

~~((23))~~ **(22) Rater** - The designated individual, normally the project engineer, responsible for evaluation of the quality and manner of performance of a contractor in the completion of a project.

~~((24))~~ **(23) Revocation of qualification** - The act by which a contractor's qualification is terminated.

~~((25))~~ **(24) Secretary** - The secretary of transportation who may delegate his or her functions under this chapter to the assistant secretary for field operations support or such other individual as deemed appropriate.

~~((26))~~ **(25) Standard** - The expected, acceptable quality of performance, considered to meet the demand, need or requirement.

~~((27))~~ **(26) Standard questionnaire** - The application form completed by a contractor to present information relating to the applicant's financial status, experience, organization, and equipment for the purpose of becoming qualified to perform department work.

~~((28))~~ **(27) Superior** - Preeminent performance consistently at an extremely high level.

~~((29))~~ **(28) Suspension of qualification** - The termination of a contractor's qualification for a specified period of time.

~~((30))~~ **(29) Unsatisfactory** - Below standard or inadequate performance, failing to meet requirements.

~~((31))~~ **(30) Work class** - A specific type of work within the various classifications of work, e.g., grading, draining, fencing, etc.

~~((32))~~ **(31) Work class rating** - The maximum value within a class of work ~~((which a contractor may bid upon it))~~ that is used to determine a firm's eligibility to receive a bid proposal document for a single project.

**AMENDATORY SECTION** (Amending Order 128, filed 1/28/91, effective 2/28/91)

**WAC 468-16-080 Qualification procedures for projects under fifty thousand dollars.** (1) Contractors may be qualified by ~~((district))~~ region administrators for projects valued under fifty thousand dollars.

(2) Procedures for letting ~~((district))~~ region level projects valued under fifty thousand dollars are published in Department Directives.

(3) A limited prequalification questionnaire and other requirements are prescribed in WAC 468-14-040.

**AMENDATORY SECTION** (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

**WAC 468-16-090 Standard questionnaire.** The standard questionnaire and financial statement shall be prepared and transmitted to the secretary, Attn: ~~((Precontract administration))~~ Contractor prequalification office. The questionnaire shall include the following information:

(1) The contractor's name, address, phone number, facsimile number, and type of organization (corporation, partnership, sole proprietorship, etc.).

(2) A list of the classes of work for which the contractor seeks qualification.

(3) A statement of the ownership of the firm and, if a corporation, the name of the parent corporation, if any, and the names of any affiliated or subsidiary companies.

(4) A certificate of authority from the office of the secretary of state to do business in Washington state if the applicant is an out-of-state corporation.

(5) A list of officials within the applicant firm who are also affiliated with other firms involved in construction work as a contractor, subcontractor, supplier, or consultant; including the name of the firm and their relationship with the affiliate firm.

(6) A complete list of the highest valued contracts or subcontracts performed in whole or in part within the immediate three years preceding application. The contract amount, contract number, date of completion, class of work; and the name, mailing address, and phone number of the project owner or agency representative must be provided for those projects listed. Only that work completed by the contractor's own organization under its own supervision will be considered for prequalification purposes. A minimum of five completed projects must be listed.

(7) Personnel requirements.

(a) A listing of the principal officers and key employees indicating their years of experience in the classes of work for which prequalification is sought. For qualification in a class of work based on newly acquired personnel rather than the firm's past contract experience, the newly acquired personnel must be available for future employment for the full year for which qualification is sought unless replacement personnel have been approved. The loss of such personnel during the year of qualification, will result in revocation of qualification for the class of work granted pursuant to their acquisition. The department may require resumes of such personnel as deemed proper for making its determination. The firm's performance on department contracts must be currently rated standard or better to be used for qualification purposes.

(b) A firm must have, within its own organization, qualified permanent, full time personnel having the skills and experience including, if applicable, technical or specialty licenses, for each work class for which prequalification is sought. Those firms seeking qualification for electrical work (classes 9 and 16) must provide photocopies of current Washington state electrical licenses. The skills and experience must be substantiated by education and practical experience on completed construction projects.

(c) "Its own organization" shall be construed to include only the contractor's permanent, full time employed office and site supervisory personnel as shown on the most recently submitted or amended prequalification questionnaire.

Workers of the organization shall be employed and paid directly by the prime contractor. The term "its own organization," shall also include the equipment owned or rented by the contractor with or without equipment operators. Such term does not include employees or equipment of another contractor, subcontractor, assignee, or agent of the applicant contractor although they are placed on the applicant contractor's payroll.

(8) A list of all major items of equipment used to perform those classes of work for which prequalification is sought. The description, quantity, condition, present location, and age of such equipment must be shown. The schedule must show whether the equipment is owned, leased, or rented.

(9) A financial statement.

~~((a))~~ For a firm showing a net worth in excess of one hundred thousand dollars, the applicant must provide, with the questionnaire, a copy of its financial statement as audited or reviewed for its last fiscal year, prepared in accordance with the standards of the American Institute of Certified Public Accountants. The statement must be prepared by an independent certified public accountant registered and licensed under the laws of any state. Balance sheets, income statements, a statement of retained earnings, supporting schedules and notes, and the opinion of the independent auditor must accompany the financial statement.

~~((b) Financial statements must be for the current twelve month period and must reflect a ratio of total current assets to total current liabilities of 1.0 or greater.))~~

(10) A wholly owned subsidiary firm may file the latest consolidated financial statement of its parent corporation in lieu of a financial statement prepared solely for the subsidiary. When a consolidated financial statement is submitted, the requirements of subsection (9) of this section and WAC 468-16-140 (2)(b) must be fulfilled.

(11) The applicant shall list the following occurrences within the previous three years:

(a) Instances of having been denied qualification, or a license, or instances of having been deemed other than responsible by any public agency.

(b) Convictions for felonies listed in WAC 468-16-050.

(c) Failure to complete a contract.

(12) The standard questionnaire shall be processed as follows:

(a) The application for qualification shall be prepared on a standard questionnaire provided by the department and sworn to before a notary public or other person authorized to take oaths.

(b) A standard questionnaire will be reviewed and a written notice provided to the applicant, within thirty days of its receipt, stating whether the applicant has been prequalified or qualification has been denied. The applicant will be advised of lack of receipt of data corroborating project completion and errors or omissions in the questionnaire and a request made for additional information necessary to complete evaluation of the applicant. If the information is not provided within twenty calendar days of the request, the application will be processed, if possible, with the information available or it will be returned to the applicant without further action.

(c) When qualification is denied, the applicant shall be advised in writing by certified mail (return receipt requested)

of the reasons for the denial and of the right to a hearing upon written request.

(d) Applicants not satisfied with the qualification granted may request in writing, a review of their questionnaire and qualification ratings. The request must be filed within thirty calendar days of the date of receipt of the notice of qualification and must specifically state the basis for the request.

(e) The secretary or designee shall advise the applicant of his or her decision on the reconsideration within thirty calendar days of receipt of the request.

(13) Criteria for initial qualification, renewal, and submission of supplemental data:

(a) Qualification may be established in any calendar quarter and must be renewed annually. Information submitted in the questionnaire will be used as a basis for the contractor's initial prequalification, work class ratings, and maximum capacity ratings. Qualification will be valid for the remainder of the applicant's fiscal year plus one calendar quarter as established by the date of the year-end financial statement. Prequalification will be renewed annually thereafter or at other times as designated by the department.

(b) A standard questionnaire from a contractor, not previously qualified under this chapter, must have been received by the department no less than fifteen calendar days prior to the scheduled bid opening to receive consideration for issuance of a bidding proposal for that bid opening.

(c) The department may, during the period for which the contractor has been prequalified, require the submission of a new standard questionnaire. If the questionnaire is not provided within thirty calendar days of the date of request, the notice of qualification held by the contractor will be declared invalid and the contractor will not be permitted to bid with the department until the contractor is again prequalified.

(d) A supplemental questionnaire shall be submitted when a significant change in the structure of the firm occurs, e.g., incorporation, officers, ownership, etc., or when required by the department.

(e) If prequalification has lapsed for more than six months, the applicant will again be required to submit a fully executed standard questionnaire and financial statement.

(f) The applicant shall authorize the department to request and receive such additional information from any sources deemed necessary for the completion of the qualification process.

(g) Inquiries will be made and investigations, if necessary, will be conducted to verify the applicant's statements and to determine eligibility for qualification.

(h) The department may require a personal interview with a principal or principals of the contracting firm when considering its qualification.

(i) Qualified contractors in good standing shall be notified of impending expiration of their qualification and will be provided the necessary questionnaire forms for renewal at least forty-five days before the expiration date.

(14) Financial information supplied by, or on behalf of, a contractor for the purpose of qualification shall not be made available for public inspection and copying pursuant to RCW 42.17.310 (1)(m). The foregoing restriction shall not prohibit the department's providing such information in evidence or in pretrial discovery in any court action or

administrative hearing involving the department and a contractor. Insofar as permitted by public disclosure statutes, qualification ratings shall be treated as confidential information.

(15) Qualified contractors will be provided with notices which list projects currently being advertised.

**AMENDATORY SECTION** (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-100 Conditional qualification.** (1) A firm may be conditionally qualified when it has been given a below standard (less than ~~((4-θ))~~ 100) performance ~~((score))~~ rating on a final performance report. A firm may also be qualified conditionally by the secretary when performance has become below standard in either "quality of work" or "progress of work" on an interim report for a current project. The ~~((district))~~ region administrator may, under the foregoing condition, request in writing that a contractor be placed in conditional status. A conditionally qualified contractor will be denied bidding proposals while in that status but may receive, at the discretion of the secretary, a bidding proposal for one project.

(2) The assistant secretary for field operations support shall advise the contractor and the ~~((district))~~ region administrator when a contractor has been placed in conditional status.

(3) Should the contractor be the low successful bidder and be awarded a contract subsequent to being placed in conditional status, the issuance of further bidding proposals will be considered only when an interim report is submitted in accordance with WAC 468-16-160 or when a final performance report is submitted in accordance with WAC 468-16-150(12) and the rating thereon is standard or better.

(4) Normally a contractor may have only one active prime contract for the department while qualified conditionally.

(5) Return to fully qualified status of a conditionally qualified contractor will be effected by:

(a) A performance rating of standard or above on contracts completed during the current prequalification year; or

(b) An interim rating of standard or above on all concurrent contracts; or

(c) A standard or above rating on the first interim report for a project awarded subsequent to conditional qualification.

(6) Should the rating continue to be less than standard, the contractor's prequalification will be suspended in accordance with WAC 468-16-180.

**AMENDATORY SECTION** (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

**WAC 468-16-120 Work class ratings.** (1) Qualification shall be granted a contractor in one or more classes of work in which the firm has shown the capability to satisfactorily perform with its own forces under its own immediate supervision.

(2) The department's project estimate shall be the only estimate used to determine the value of the various classes of work within a project for determining a contractor's eligibility to bid that specific project. The contractor will be required to perform a specified percentage of the total work

as provided for in the current issue of the *Standard Specifications*.

(3) Contractors will be given work class ratings on the basis of their financial status, performance record, previous experience, organization, and condition and suitability of equipment. ~~((Higher performance ratings result in higher work class ratings.))~~

(4) When it has been determined that adequate competition cannot be afforded as a result of either the lack of prequalified bidders, or the lack of applicants for qualification with sufficient experience in the work class required, the department may take in consideration the firm's experience in performing other related work in order to create competition providing that:

(a) The work class does not require a specialty license.

(b) The firm seeking the work class is deemed qualified in another work class under chapter 468-16 WAC.

(c) The firm seeking such work meets all other requirements prescribed under this chapter including the availability of the necessary equipment for the project being let.

(5) Data provided by project owners, other than the department, to inquiries made concerning new applicants seeking qualification, shall be used to determine initial work class ratings and maximum capacity ratings. Initial work class ratings for new applicants and those of firms which have not renewed their qualification within two years, will be based on performance data provided by agencies or organizations having previously employed the applicant. Such other data as the department may have on file may also be used. Work submitted by the new contractor and verified by the department will be given an initial work class rating equal to 2.5 times the highest value of the work the contractor has completed within that work class during the past three years. If a specific portion of a work class is performed by the contractor, the prequalification for that class will be limited to that portion of the work.

(6) Work reported as less than satisfactory will not be accepted for qualification purposes, but may be included with performance reports in determining the status of the contractor's prequalification.

(7) Work class ratings previously granted will not be reduced providing the contractor has maintained a standard performance record on department work and the contractor continues to submit the required questionnaire annually. Should a significant reduction of resources occur, the contractor's work class ratings may be modified or reduced to an amount within the contractor's current capacity.

(8) A contractor's work class ratings will be reviewed annually effective on the date the renewal questionnaire has been received. Work class ratings for those contractors renewing prequalification will be reviewed for increases, decreases, and additional work classes not previously granted. In determining the annual status of the contractor's work class ratings, prime work completed for the department and the performance rating given for that work shall be weighted more heavily than work completed for other agencies.

(9) Work class ratings shall be computed by multiplying the highest value of the work class completed satisfactorily during the preceding prequalification year by a factor of 2.5 provided that the currently established work class rating is not higher. In that event, the currently established work

class shall become the work class rating for the ensuing qualification year. Work class ratings will not change if the contractor has not performed in that work class during the prequalification year.

~~((10) Work class ratings for inactive contractors renewing prequalification will be computed annually in the same manner as for new applicants for a period not to exceed three years. Work class ratings granted within three successive renewal periods shall remain the same as for an inactive contractor if the contractor continues to submit the required questionnaire annually and the questionnaire does not reveal a significant reduction in organizational resources. When a significant reduction of resources occurs, the inactive contractor's work class ratings may be modified to an amount within the contractor's current capacity.))~~

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

**WAC 468-16-130 Prequalification work classes.** A contractor seeking prequalification under this chapter will be classified for one or more of the following listed work classes in accordance with the adequacy of the firm's equipment and plant facilities and its proven ability to perform the work class sought.

- Class 1 **Clearing, grubbing, grading & draining**  
Removal of tree stumps, shrubs, modification of the ground surface by cuts and fills, excavating of earth materials, and the placement of drainage structures.
- Class 2 **Production and placing of crushed materials**  
Production and placing crushed surfacing materials and gravel.
- Class 3 **Bituminous surface treatment**  
Placing of crushed materials with asphaltic application.
- Class 4 **Asphalt concrete paving**  
Production and placing Asphalt Concrete Plant Mix Pavement.
- Class 5 **Cement concrete paving**  
Production and placing cement concrete pavement.
- Class 6 **Bridges and structures**  
Construction of bridges, walls and other major structures of timber, steel, and concrete.
- Class 7 **Buildings**  
Construction of buildings and related structures within the right of way and major reconstruction and remodeling of such buildings.
- Class 8 **Painting**  
Painting bridges, buildings, and related structures.
- Class 9 **Traffic signals**  
Installation of traffic signal and control systems.
- Class 10 **Structural tile cleaning**  
Cleaning tunnels, large buildings and structures and storage tanks.

- Class 11 **Guardrail**  
Construction of a rail secured to uprights and erected as a barrier between, or beside lanes of a highway.
- Class 12 **Pavement marking (excluding painting)**  
Thermoplastic markings, stripes, bars, symbols, etc. Traffic buttons, lane markers, guide posts.
- Class 13 **Demolition**  
Removal of timber, steel, and concrete structures and obstructions.
- Class 14 **Drilling and blasting**  
Controlled blasting of rock and obstructions by means of explosives.
- Class 15 **Sewers and water mains**  
Draining, pipe jacking, water systems, pumping stations, storm drainage systems, sewer rehabilitation, sewage pumping stations, pressurized lines.
- Class 16 **Illumination & general electrical**  
Highway illumination, navigational lighting, wiring, junction boxes, conduit installation.
- Class 17 **Cement concrete curb and gutter**  
Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.
- Class 18 **Asphalt concrete curb and gutter**  
Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.
- Class 19 **Riprap and rock walls**  
Mortar, rubble, and masonry walls; rock retaining walls, and placing of large broken stone on earth surfaces for protection against the action of water.
- Class 20 **Concrete structures except bridges**  
Cast-in-place median barrier, prestressing, post-tensioned structures, footings, prefabricated panels and walls, retaining walls, and ramps, foundations, rock bolts, and concrete slope protection.
- Class 21 **Tunnels and shaft excavation**  
Tunnel excavation, rock tunneling, and soft bore tunneling.
- Class 22 **Piledriving**  
Driving concrete, steel, and timber piles.
- Class 23 **Concrete surface treatment**  
Exposed aggregate, fractured-fin and rope textured finishes; waterproofing concrete surfaces (clear or pigmented sealer).
- Class 24 **Fencing**  
Wire and metal fencing, glare screens.
- Class 25 **Bridge deck repair**  
Bridge expansion joint repair and modification, bridge deck resurfacing and repair.
- Class 26 **Deck seal**  
Waterproof membrane.
- Class 27 **Signing**  
Sign structures and signs.

- Class 28 **((~~Electronics~~ Surveillance and control systems design and installation, electronics training and maintenance.)) Not used**
- Class 29 **Slurry diaphragm and cut-off walls**  
Slurry excavation and the construction of structural concrete walls and slurry cut-off walls.
- Class 30 **Surveying**  
Highway construction surveying.
- Class 31 **Water distribution and irrigation**  
Irrigation systems and heavy duty water distribution.
- Class 32 **Landscaping**  
Landscape irrigation, planting, sodding, seeding, fertilizing, mulching, herbicide application, insecticide application, weed control, mowing, liming, soil binder, topsoil.
- Class 33 **Engineering**  
Work other than surveying, including engineering calculations, drawing and other related work for highway construction.
- Class 34 **Erosion control**  
Seeding, fertilizing, mulching, slope protection, topsoil application, hydro-seeding, soil stabilization, soil sampling.
- Class 35 **Precast median barrier**  
A concrete barrier that is cast and cured in other than its final position used to divide the median of two adjacent highways or temporarily placed to divert traffic in construction zones.
- Class 36 **Permanent tie back anchor**  
Installation of permanent rock and soil anchors, soldier piles and timber lagging. Soldier pile tie back anchor wall construction.
- Class 37 **Impact attenuators**  
Installation of approved protective systems filled with sand, water, foam, or other substances which prevent errant vehicles from impacting roadside hazards.
- Class 38 **Paint striping**  
Painted bars, letters, symbols, and striping.
- Class 39 **Wire mesh slope protection**  
The installation of a zinc coated steel wire mesh anchored by wire rope and reinforced concrete posts or anchor rods. Used for dampening the effects of rolling rocks onto the highway. Slope scaling, horizontal drains, rock dowels, and rock bolts for slope stabilization.
- Class 40 **Gabion and gabion construction**  
Construction of walls made with containers of galvanized steel hexagonal wire mesh and filled with stone.
- Class 41 **Not used**
- Class 42 **Electronics—fiber optic based communications systems**  
Design and installation of fiber optic based communication systems.
- Class 43 **Mechanical**  
Plumbing work and the installation of heating or air conditioning units.
- Class 44 **Asbestos abatement**  
Asbestos abatement (L & I certified workers).
- Class 45 **((~~Not used~~)) Hazardous waste removal**  
The containment, cleanup, and disposal of toxic materials. Companies seeking this classification shall have full-time personnel with current hazardous waste training (certifications).
- Class 46 **Concrete restoration**  
Pavement subseal, cement concrete repair, epoxy coatings, epoxy repair, masonry repair, masonry cleaning, special coatings, epoxy injection, gunite, shotcrete grouting, pavement jacking, gunite repair, and pressure grouting.
- Class 47 **Concrete sawing, coring, and grooving**  
Concrete sawing, concrete planing and grooving, bump grinding, joint repair, concrete coring, rumble strips.
- Class 48 **Dredging**  
Excavating underwater materials.
- Class 49 **Marine work**  
Underwater surveillance, testing, repair, subaquatic construction, anchors, and cable replacement, floating concrete pontoon repairs and modifications, disassembly and assembly of floating concrete pontoons.
- Class 50 **((~~Not used~~)) Ground modification**  
Pressure grouting, blast densification, stone column, jet grouting, compaction, dynamic compaction, soil mixing, gravel drain.
- Class 51 **Well drilling**  
Drilling wells, installing pipe casing and pumping stations.
- Class 52 **Sewage disposal**  
Hauling and disposing liquid and solid wastes.
- Class 53 **Traffic control**  
Providing piloted traffic control, traffic control labor, and maintenance and protection of traffic.
- Class 54 **Railroad construction**  
Construction of railroad subgrade, placing of ballast, ties, and track and other items related to railroad work.
- Class 55 **Steel fabrication**  
Welding of steel members, heat straightening steel.
- Class 56 **Street cleaning**  
Street sweeping with self-propelled sweeping equipment.

- Class 57 **Materials transporting**  
Truck hauling.
- Class 58 **Sand blasting and steam cleaning**  
Steam cleaning, sand blasting, shot blasting, and water blasting.

**AMENDATORY SECTION** (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-140 Maximum capacity rating.** (1) The maximum capacity rating shall be determined by multiplying the contractor's reported net worth by a factor of 5.0. The factor may be increased at a rate of 0.5 annually, provided the contractor has maintained a satisfactory performance record with the department and has completed a contract of fifty thousand dollars or more within the preceding prequalification year. The maximum factor shall be 7.5. The department may at any time decrease the rating factor if the contractor's performance becomes less than standard, however no decrease in the bidding capacity will become effective until action to appeal, as specified in these rules, has been completed.

(2) For the purpose of prequalification and establishing the maximum capacity rating, the following additional resources may be added to net worth if supported with documentation as specified:

(a) An operating line of credit - Documentation from an acceptable financial institution stating the amount of credit authorized, its expiration date, and the amount currently available. The document must be authenticated by an official authorized to execute lines of credit on behalf of the institution. Should the operating line of credit be revoked, it shall be deducted before computing a new annual maximum capacity rating.

(b) A parent firm pledge of net worth - A sworn statement from the parent firm that guarantees the performance of the subsidiary for any contracts awarded it. The document shall include a parent firm pledge in an amount such that when calculated in subsection (1) of this section will not be less than the value of uncompleted contracts of the subsidiary. An audited financial statement, as prescribed in WAC 468-16-090 (9)((a)), may be requested from the parent firm when deemed appropriate.

(c) A personal pledge of net worth - A sworn statement pledging a specific amount of personal assets. The statement must be accompanied by acceptable documents that will verify the ownership and value of the assets.

(3) Resources listed above will not be accepted in lieu of a minimum net worth of fifty thousand dollars.

(4) For the purpose of prequalification and establishing the maximum capacity rating, a bidding company which has established a leveraged ESOP (Employee Stock Ownership Plan) may use, in place of its net worth, the lesser of:

(a) The company's net worth, as adjusted by eliminating any contra-equity or unearned compensation entry in the net worth section of the balance sheet which is directly related to the ESOP loan; or

(b) The company value as established by the company's most recent valuation for ESOP purposes provided the valuation was performed within the last twelve months which meets federal guidelines for ESOP-related valuations.

The department may require submission of a copy of this valuation report for documentation purposes.

(5) When the value of a firm's uncompleted work for the department exceeds its maximum capacity rating, a bidding proposal shall be denied that firm.

**AMENDATORY SECTION** (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

**WAC 468-16-150 Prime contractor performance reports.** (1) Performance reports described in this section, substantially in the format as that appearing at WAC 468-16-210, will be completed for prime contractors only for projects valued at one hundred thousand dollars or more. Each prime contractor's performance report will be classified as to the primary work class being rated. This shall be stated in Section I of the report by listing the major classes of work performed by the contractor e.g., clearing, grading, surfacing, etc.

(2) Performance will be rated under the following headings: Administration, management, and supervision; quality of work; progress of work; and equipment.

(3) The following adjectival ratings are established for performance reports:

- (a) Superior((-)) 131-150
- (b) Above standard((-)) 101-130
- (c) Standard((-)) 100
- (d) Below standard((-)) 70-99
- (e) Inadequate((-)) 50-69

~~(4) (The report shall contain a numerical section which quantifies the adjectival ratings into a total performance rating which is multiplied by .01 to obtain a performance score falling within one of the following ranges:~~

Superior	1.31	1.50
Above Standard	1.01	1.30
Standard	1.00	
Below Standard	.70	.99
Inadequate	.50	.69

~~(5) The performance score (PS) is computed by multiplying the performance rating (PR) obtained from the prime contractor's performance report by a factor (F) of .01 e.g., 129 (PR) x .01 (F) = 1.29 (PS).~~

~~(6) The annual performance score is the average of the scores, by work class, obtained from all performance reports submitted for department projects completed during the one-year period next preceding the date of expiration of the contractor's qualification.~~

~~(7)) The performance report shall be used in ((fixing)) evaluating a contractor's prequalification status.~~

~~((8)) (5) The report shall contain a narrative section which verbally provides the details substantiating the numerical rating. The narrative section shall be based upon documentation prepared during the life of the project, such as the project engineer's diary, the inspector's daily report and other pertinent documents. This documentation shall constitute the major portion of the administrative record to be used for any hearings or litigation that may arise from the rating process.~~

~~((9)) (6) The performance report will be prepared and discussion held with the contractor by the project engineer. The report will include a numerical rating substantiated by~~

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a narrative report which describes the contractor's typical performance. The narrative will reference such documents as will substantiate the given numerical rating.

~~((10))~~ (7) The report will be endorsed by the ~~((district))~~ region operations engineer or designated assistant who will provide a copy to the contractor.

~~((11))~~ (8) The contractor may appeal the rating to the ~~((district))~~ region administrator in writing within twenty calendar days of the date the report is received by the contractor. If the report is not delivered to the contractor in person, it shall be forwarded by certified mail with a return receipt requested. The appeal must set forth the specific basis upon which it has been made.

~~((12))~~ (9) The ~~((district))~~ region administrator will review all contractor performance reports after they have been endorsed and may modify the numerical or narrative rating if such is deemed appropriate. The contractor will be advised of any changes made. The ~~((district))~~ region administrator will be required to make comments thereon only when the contractor's overall performance rating has been rated inadequate, below standard, or superior.

~~((13))~~ (10) Performance reports, when completed at ~~((district))~~ region level, will be submitted to the secretary, Attn: Manager, ~~((precontract administration))~~ contractor prequalification office, not later than forty-five calendar days following final completion of the project.

~~((14))~~ (11) The ~~((district))~~ region administrator shall review the appeal and provide a written response to the contractor by certified mail (return receipt requested) within twenty calendar days of its receipt. A copy of the appeal and the response thereto will be forwarded to the secretary, Attn: ~~((Precontract administration))~~ Contractor prequalification office.

~~((15))~~ (12) The contractor may further appeal to the secretary in writing setting forth the specific basis for the appeal. The contractor's appeal shall be made within ten calendar days of the date of receipt of the ~~((district))~~ region administrator's response. When making an appeal, the contractor may also present information in person. The secretary will consider the appeal and respond to it by certified mail within sixty calendar days of its receipt. This determination shall be the final administrative act of the department.

~~((16))~~ (13) All prime contractor performance reports shall be reviewed by the office of the secretary for completeness, objectivity, and substantiation of numerical ratings. The secretary may modify the report as deemed appropriate as a result of the review. The rated contractor and ~~((district))~~ region administrator shall be given a copy of the modified report. The contractor may appeal the modified report in the manner and within the time allotted in subsection ~~((15))~~ (12) of this section to which the secretary shall respond as cited therein.

~~((17))~~ (14) A prime contractor performance report shall be considered a preliminary paper until all reviews and appeals have been accomplished and it shall have been stamped and initialed as having been "filed in the office of the secretary."

~~((18))~~ (15) DOT Form 421-010 is authorized.

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

**WAC 468-16-160 Interim reports.** (1) Interim performance reports will be completed for contracts of long duration, particularly those in excess of one year and submitted to the ~~((manager, precontract administration))~~ contractor prequalification office. They will be completed annually on the anniversary of the start date of the contract. An interim report will also be completed when a contractor's total, overall work has become less than standard and the firm has been advised in writing of such performance. An interim report may never cover a period of more than one year. The report will be used by the secretary as a basis for determining whether a contractor will be placed in conditional status.

(2) In the case of a conditionally qualified firm, an interim report shall be submitted at sixty calendar day intervals for the project being undertaken by that firm subsequent to its being placed in conditional status. When a contractor's overall performance has not been brought up to standard after two consecutive interim reports have been prepared, no further interim reports shall be made except at the written request of the contractor. The date of the report will be the date of the contractor's request.

(3) The project engineer shall submit an interim report when it becomes evident that he or she will no longer be involved in the project, providing that project has been in progress for twenty-five percent of the working days assigned the project or ninety working days whichever is less.

(4) Interim performance reports will supplement and will be made a part of the final performance report.

(5) The procedures specified in WAC 468-16-150 ~~((8))~~ (5) through ~~((17))~~ (14) are also applicable to the processing of the interim performance report.

(6) DOT Form 421-010 is authorized.

AMENDATORY SECTION (Amending Order 134, filed 1/12/93, effective 2/12/93)

**WAC 468-16-170 Refusal to issue proposal.** The secretary may refuse to issue a proposal for reasons as enumerated in WAC 468-16-040 through 468-16-070, inclusive. Refusal to issue a proposal may continue in effect until the cause for the refusal has been eliminated. One or more of the following additional conditions may be considered sufficient for refusal to issue a proposal:

(1) The value of outstanding work plus the contract total of the work proposed to be bid exceeds the contractor's maximum capacity rating.

(2) Being placed in conditional status.

(3) Making false, fraudulent, or deceptive statements on the standard questionnaire, related documents, or documents prepared in the course of prosecuting the work.

(4) Debarment or suspension from participation in federal or state projects.

(5) Expiration of qualification.

(6) Failure to update the latest questionnaire to fairly represent the contractor's current organization and financial status.

(7) ~~((Noncompliance with equal employment opportunity (EEO), or minority and women's business enterprise~~

~~(MWBE), or disadvantaged business enterprise (DBE) regulations.~~

~~(8))~~ Bankruptcy.

~~((9))~~ (8) The existence of any conditions described in WAC 468-16-040 through 468-16-070 inclusive.

AMENDATORY SECTION (Amending WSR 94-05-004, filed 2/2/94, effective 3/5/94)

**WAC 468-16-180 Suspension of qualification.** (1) A suspension may be ordered for cause or for a period pending the completion of investigation and any ensuing legal action for revocation of qualification.

(2) The secretary may, upon determination from reports, other documents, or through investigation that cause exists to suspend the qualification of a contractor, impose suspension upon a contractor.

(3) The secretary may suspend qualification for:

(a) Incompetency found detrimental to timely project completion or to the safety of the public or employees.

(b) Inadequate performance on one or more projects.

(c) Infractions of rules, regulations, specifications, and instructions which may adversely affect public health, welfare, and safety.

(d) Uncompleted work which might prevent the prompt completion of other work.

(e) ~~((Continual))~~ A finding of noncompliance and refusal to agree to take corrective action, and/or failure to implement agreed upon corrective action to comply with equal employment opportunity or women's, minority and disadvantaged business enterprise requirements.

(f) Repeated findings of noncompliance with equal employment opportunity or women's, minority, and disadvantaged business enterprise requirements.

(g) Debarment or suspension from participation in federal or state projects.

~~((g))~~ (h) Pending completion of debarment proceedings in federal or state projects.

(4) The maximum period of suspension for acts or deficiencies enumerated above are as follows:

(a) For subsection (3)(a) and (e) of this section - Three months.

(b) For subsection (3)(b), (c), (d), and ~~((e))~~ (f) of this section - Six months.

(c) For subsection (3)~~((f))~~ (g) of this section - For duration of debarment or suspension by the federal or other state agency.

(d) For subsection (3)~~((g))~~ (h) of this section - Until a determination is made by the federal or other state agency.

(5) The secretary may reduce the period of suspension upon the contractor's supported request for reasons including, but not limited to:

(a) Newly discovered evidence;

(b) Elimination of causes for which the suspension was imposed.

## WSR 97-09-046

### PERMANENT RULES

## DEPARTMENT OF TRANSPORTATION

[Order 169—Filed April 15, 1997, 3:18 p.m.]

Date of Adoption: April 15, 1997.

Purpose: Chapter 468-86 WAC, to provide a framework for state-wide and regional consistency in the performance and development of the regional transportation planning process.

Statutory Authority for Adoption: RCW 47.80.070 and SHB 1928, Section 5.

Adopted under notice filed as WSR 97-06-005 on February 24, 1997.

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 16, 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 16, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 16, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 15, 1997

S. A. Moon

Deputy Secretary  
for Operations

## Chapter 468-86 WAC RTPO PLANNING STANDARDS AND GUIDELINES

### PART ONE PURPOSE/AUTHORITY

#### NEW SECTION

**WAC 468-86-010 Authority.** The regional transportation planning program was authorized by the 1990 legislature as part of the state's Growth Management Act. The program is contained in chapter 47.80 RCW, with funding appropriations made as part of the Department of Transportation Appropriations Act.

#### NEW SECTION

**WAC 468-86-020 Purpose/intent.** (1) The regional transportation planning program creates a formal mechanism for local governments and the state to coordinate transportation planning for regional transportation facilities. The act authorized the creation of regional transportation planning organizations (RTPO) by local governments to coordinate transportation planning among jurisdictions and develop a regional transportation plan. The regional transportation planning program is available to all counties and cities state-wide (RCW 47.80.020).

PERMANENT

(2) The legislature has authorized a grant program to fund this work. The department has the authority to administer this grant program, and to develop in cooperation with the RTPOs:

(a) Minimum planning standards for the development of a regional transportation plan;

(b) The RTPO regional transportation improvement program;

(c) Planning guidelines and principles;

(d) Certification standards for the transportation portion of local comprehensive plans and county-wide planning policies;

(e) The adoption of LOS standards on state transportation facilities; and

(f) RTPO regional transportation strategies.

(3) The purpose of the minimum planning standards is to guide RTPOs in the use of the regional transportation planning grants, and in the development of planning products under the program. Work proposed by each regional transportation planning organization shall be included in a work program that demonstrates adherence to the planning standards within this chapter. The intent of the department is to provide guidance that is sufficient to ensure a minimum level of consistency across the state, while providing flexibility for regions to meet specific mobility needs.

(4) The department will achieve this purpose through the establishment of these rules and through the cooperative development and maintenance of a set of RTPO planning standards and guidelines. Copies of these standards and guidelines will be available through the department's transportation planning office.

## PART TWO GENERAL REQUIREMENTS

### NEW SECTION

**WAC 468-86-030 Definitions.** "Consistency" means that no feature of a plan or regulation is incompatible with any other feature of a plan or regulation. Consistency is indicative of a capacity for orderly integration or operation with other elements in a system.

"Department" means the department of transportation (WSDOT).

"Least cost planning" means a process of comparing direct and indirect costs of demand and supply options to meet transportation goals and/or policies where the intent of the process is to identify the most cost-effective mix of options.

"Level of service" means an established minimum capacity for both transit and regional arterials that must be provided per unit of demand or other appropriate measure of need.

"Organization" means regional transportation planning organization (RTPO).

"Region" means the area that includes the local jurisdictions that comprise the regional transportation planning organization.

"Urbanized area" means those areas designated as such by the U.S. Bureau of the Census.

"Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

### NEW SECTION

**WAC 468-86-040 Determining the region.** Local governments should decide the geographic extent and composition of their region. The region should reflect common transportation concerns and a willingness among the local governments to work together in a cooperative planning process.

### NEW SECTION

**WAC 468-86-050 Establishing the organization.** (1) A regional transportation planning organization is a voluntary association of local governments within the region. It shall be a formal organization formed through an interlocal agreement that establishes the organization, defines duties and relationships, and includes a transportation policy board. The establishment of a technical advisory committee (TAC) is recommended. The RTPO must determine its own structure to ensure equitable and acceptable representation by member governments. Regions are encouraged to seek native American tribal involvement.

### NEW SECTION

**WAC 468-86-060 Relationship to MPOs.** The federal government requires a regional transportation planning process in urbanized areas with over fifty thousand population. This process is carried out by metropolitan planning organizations (MPOs) that have been jointly designated by local governments and the state. The intent is that the regional transportation planning program be integrated with the metropolitan planning organization program in these urbanized areas. RCW 47.80.020 requires that RTPOs shall be the same organization as that designated as the MPO. The regional transportation planning program provides the opportunity for transportation planning in rural areas within the RTPO. The department intends to jointly administer these two programs.

### NEW SECTION

**WAC 468-86-070 Designation procedures.** (1) Local governments desiring participation in the regional transportation planning program must submit an RTPO designation package to WSDOT. This information is necessary for WSDOT to verify that the RTPO meets the requirements of RCW 47.80.020. This package shall contain the following items:

(a) A description of the region;

(b) A formal designation of the RTPO, in the form of a resolution or other legal declaration;

(c) A list of all RTPO member local governments;

(d) A copy of the interlocal agreement that will govern RTPO operations;

(e) A formal designation by the RTPO of the lead planning agency; and

(f) A description of the RTPO's transportation policy board.

(2) WSDOT has the responsibility of verifying that RTPOs designated by local governments meet the state requirements. The most recent annual OFM population data will be used to verify population figures. WSDOT will review the RTPO designation package, make a finding of

verification, and concur with or deny the local designation. Once verified, the RTPO may proceed in carrying out its duties and may receive regional transportation planning formula grants. If significant changes are made in the structure of the RTPO, WSDOT may request that another designation package be submitted for verification review.

### PART THREE REGIONAL TRANSPORTATION PLAN

#### NEW SECTION

##### **WAC 468-86-080 Least-cost planning methodology.**

The methodology shall consider direct and indirect costs and benefits for all reasonable options to meet planning goals and objectives. The methodology shall treat demand and supply resources on a consistent and integrated basis. The regional transportation planning organizations shall consult the guidelines set forth by the department for implementing a least-cost planning methodology. Regional transportation plans should incrementally incorporate least-cost planning methodologies as these concepts are developed. The regional transportation plan adopted after July 1, 2000, shall be based on a least-cost planning methodology appropriate to the region.

#### NEW SECTION

**WAC 468-86-090 Regional transportation goals and objectives.** The regional transportation planning program is meant to foster an ongoing transportation planning and decision-making process that actively plans for the improvement of regional transportation systems and coordinates this process among jurisdictions. The goals and objectives of the regional transportation plan should incorporate existing transportation related county-wide planning policies or multicounty transportation related planning policies where adopted and adhere to the following principles:

- (1) Build upon applicable portions of the existing local comprehensive plan and process and promote the establishment of a regional perspective into the local comprehensive plan;
- (2) Encourage partnerships between federal, state, local and tribal governments, special districts, the private sector, the general public, and other interest groups during conception, technical analysis, policy development, and decision processes in developing, updating, and maintaining the regional transportation plan;
- (3) Ensure early and continuous public involvement from conceptual planning through decision making;
- (4) Shall be ongoing, and incorporate short and long range multimodal planning activities to address major capacity expansion and operational improvements to the regional transportation system;
- (5) Use regionally coordinated, valid and consistent technical methods and data should be used in identifying and analyzing needs;
- (6) Consider environmental impacts related to the development of regional transportation policies and facilities and;
- (7) Address the policies regarding the coordination of transportation planning among regional jurisdictions, including the relationship between regional transportation planning,

local comprehensive planning and state transportation planning.

Within these principles, regions shall develop their own ongoing planning process for the development and refinement of the regional transportation plan, and provide a forum for the discussion of regional transportation planning issues.

#### NEW SECTION

##### **WAC 468-86-100 Regional transportation strategy.**

Each regional transportation planning organization shall develop a regional transportation strategy. The strategy should identify alternative transportation modes within the region and recommend policies to:

- (1) Address each transportation mode;
- (2) Address intermodal connections between modes; and
- (3) Address transportation demand management where required.

The regional transportation strategy is intended to guide development of the regional transportation plan and any periodic updates.

Adopted multicounty and county-wide planning policies and policies from local comprehensive plans that are regional in scope and regionally consistent should provide the basis for the regional transportation strategy. The regional transportation strategy should be periodically reviewed and updated as necessary to reflect changing priorities or to maintain regional consistency.

#### NEW SECTION

**WAC 468-86-110 Needs, deficiencies, data requirements, and coordinated regional transportation and land use assumptions.** (1) The following components shall be developed and incorporated in the RTP:

- (a) An inventory of existing regional transportation facilities and services, including physical, operational, and usage characteristics of the regional transportation system;
- (b) An evaluation of current facilities and services, comparing current usage, and operational characteristics to level of service standards, and identification of regional transportation needs;
- (c) Forecasts of future travel demand, based on the regional transportation strategy and local comprehensive plans;
- (d) Identification of future regional transportation system deficiencies, comparing future travel needs for movement of people and goods to available facilities and services; and
- (e) Coordinated common regional assumptions (growth, population, employment, mode split, etc.) among local jurisdictions for the development of all transportation models to ensure consistency within the RTPO, and:
  - (i) These common regional assumptions shall recognize the planning requirements of the state's Growth Management Act, and;
  - (ii) Be consistent with population forecasts prepared by the office of financial management.

(2) **Performance monitoring.** An integral part of the regional transportation plan is monitoring the performance of the regional transportation system over time. This information is necessary to determine the success of plan implementation and the effect of the desired improvements on the performance of the regional transportation system. Each

RTPO shall describe their performance monitoring system in the regional transportation plan. The performance monitoring measures shall include traffic volumes and vehicle miles of travel (VMT) at a minimum and can include, but are not limited to, travel time, speed, safety standards and other measures. Performance monitoring measures should be coordinated and measurable on a consistent basis throughout the RTPO.

**(3) Regional development patterns and investments.**

The regional transportation plan shall include a general assessment of regional development patterns and investments. This analysis is intended to provide direction and background information for updates of the regional transportation plan. The RTP updates shall be based upon a general retrospective discussion of current land use and transportation patterns and their relationship to the region's goals and objectives and elsewhere in the regional transportation plan. Current and projected development patterns and the expected magnitudes and time frame in which these developments are expected to occur should be reviewed and evaluated against the regional growth and transportation strategies. If the regional growth and transportation strategies have changed or current and projected development can be shown to be inconsistent, the plan should be updated to reflect these changes, or development policies should be updated to assure consistency and continuity of transportation and land use issues within the region. The region's interrelationships between growth and transportation should be discussed along with strategies such as access control, development of heritage corridors, and other measures designed to maintain current and proposed development patterns consistent with the regional transportation plan and the transportation and land use elements of local comprehensive plans.

**NEW SECTION**

**WAC 468-86-120 Financial component.** The financial component shall include the following:

(1) An analysis of funding capacity including an inventory of revenue sources for regional transportation improvements, and probable funding levels available for regional transportation improvements from each source;

(2) Probable funding comparisons with identified current and future needs, including identified funding shortfalls; and

(3) If funding shortfalls are identified, an analysis of additional funding resources to make up the shortfall, or a reassessment of the regional transportation strategies, at a minimum, to ensure that transportation needs fall within probable funding levels.

**NEW SECTION**

**WAC 468-86-130 Proposed future transportation network.** Based upon the identified needs and probable funding levels within the region, the proposed future transportation network defines specific facility or service improvements, transportation system management strategies, and demand management strategies proposed for implementation on the regional transportation system. The plan shall identify priority levels for these improvements to guide local jurisdictions and the state in implementation and development of the regional transportation improvement program.

**NEW SECTION**

**WAC 468-86-140 High capacity transit and public transportation interrelationships.** Within those RTPOs where there is an existing or proposed high capacity transit system, the regional transportation plan shall discuss the relationship between the high capacity transit system and conventional public transit system. This could include policies to maintain coordinated arrivals and departures of interconnecting routes, coordination with other multimodal transportation centers, and other strategies targeted at improving these intermodal relationships over time.

**PART FOUR  
CERTIFICATION**

**NEW SECTION**

**WAC 468-86-150 Certification.** (1) By December 31, 1996, each RTPO shall certify, that the transportation element of all comprehensive plans for cities and counties planning under the Growth Management Act:

(a) Reflect the transportation guidelines and principles established in the regional transportation plan;

(b) Are consistent with the adopted regional transportation plan; and

(c) Conform with the requirements of RCW 36.70A.070.

(2) Each RTPO shall also certify that county-wide planning policies adopted under RCW 36.70A.210 and the adopted regional transportation plan are consistent.

(3) Regions shall cooperatively define and establish measures and processes to determine regional consistency with the adopted regional transportation plan.

**PART FIVE  
TRANSPORTATION IMPROVEMENT PROGRAM**

**NEW SECTION**

**WAC 468-86-160 Regional transportation improvement program.** (1) Each RTPO shall compile a regional transportation improvement program (TIP) at least once every two years. The regional TIP shall:

(a) Be developed on a cooperative basis by local government agencies, public transit agencies, and the department of transportation within each region;

(b) Consist of a list of regionally significant transportation projects and programs including projects proposed for construction and transportation demand management measures proposed to be implemented during each year for the next six-year period;

(c) Consist of regionally significant projects included in the local six-year transit development plans and six-year comprehensive transportation programs required by RCW 35.58.2795, 35.77.010, and 36.81.121 for transit agencies, cities, towns, and counties;

(d) Include all proposed WSDOT projects in the region;

(e) Include only projects consistent with the regional transportation plan;

(f) Include a financial section outlining:

(i) Sources of funding reasonably expected to be received for each year of the ensuing three-year period; and

(ii) All assumptions and explanations supporting the expected levels of funding consistent with information included in the financial component of the regional transportation plan.

(2) The six-year regional TIP developed by each RTPO is intended for use as a planning document and shall be available at the lead planning agency office of the RTPO.

**WSR 97-09-066**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 97-68—Filed April 21, 1997, 4:55 p.m.]

Date of Adoption: April 18, 1997.

Purpose: Correct rule reference.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-225.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 97-07-052 on March 17, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 21, 1997

Lisa Pelly, Chairperson  
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 95-10, filed 1/30/95, effective 5/1/95)

**WAC 220-56-225 Freshwater angling hours.** It is unlawful to fish for personal use in those waters and during the period of a nonbuoyant lure restriction as provided for in WAC ((220-56-125)) 220-56-205 from one hour after official sunset to one hour before official sunrise.

**WSR 97-09-072**  
**PERMANENT RULES**  
**GAMBLING COMMISSION**

[Filed April 22, 1997, 10:58 a.m., effective July 1, 1997]

Date of Adoption: April 16, 1997.

Purpose: This rule establishes a limit on the number of occasions in which a gift certificate may be awarded as a

bingo prize and sets a maximum of \$40 for the value of the gift certificate prize. WSR 96-11-125 (CR-101), WSR 96-24-004 (CR-102).

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-115.

Statutory Authority for Adoption: RCW 9.46.070 (1), (8), (11), (14), (16), (20).

Adopted under notice filed as WSR 97-03-092 on January 17, 1997.

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 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1997.

April 21, 1997

Soojin Kim

Rules and Policy Coordinator

AMENDATORY SECTION (Amending Order 288 [WSR 96-07-078], filed 3/19/96, effective 7/1/96)

**WAC 230-20-115 Gift certificates—Requirements.** Gift certificates may be sold or issued as prizes during bingo games and such shall not be deemed sales of bingo cards for purposes of this title if licensees comply with the following restrictions:

(1) If sold, gift certificates shall be paid for in full at the time they are issued;

(2) Gross receipts from the sale of certificates shall be deposited separately into the gambling account no later than five banking days after receipt. The certificate numbers relating to the funds deposited shall be a part of the deposit record;

(3) For gift certificates awarded as prizes, the value of the certificate is recorded as a bingo prize on the daily bingo records for the sessions in which the certificate was issued. The certificate will be supported by a bingo prize receipt;

(4) Gift certificates shall be purchased from a commercial printer or licensed distributor and shall be prenumbered, consecutively issued, and have a predetermined value with the following information imprinted:

(a) The name of the organization issuing the certificate;

(b) The date issued and an expiration date no later than three months from the date issued for awarded certificates; and one year for sold certificates;

(c) The dollar value of the certificate; and

(d) Any conditions or contingencies related to redemption of the certificate;

(5) ~~((If given as a prize, the value of the certificate shall be no more than forty dollars U.S. currency))~~ Gift certifi-

certificates may only be awarded as prizes on up to four occasions per year, and no prize shall include more than forty dollars U.S. currency in gift certificates;

(6) Certificates shall only be redeemed for bingo cards, food, drink, merchandise, punchboards or pull tabs upon the licensed premises from which it was issued;

(7) Certificates redeemed shall be applied against bingo activity and daily bingo records shall be modified in the cash reconciliation section of the approved record format to document the number and dollar value of certificates redeemed;

(8) A reconciliation of gift certificate inventory to certificates issued shall be performed on a monthly basis and will include the following control features:

(a) Purchase invoices will be retained for gift certificates and they will include the organization name, date of purchase, and beginning and ending certificate numbers;

(b) Redeemed certificates will be maintained with the corresponding daily sales records;

(c) Certificates not redeemed within the expiration date shall be properly accounted for as a donation; and

(d) A certificate log will be maintained and will include the following:

(i) Certificate number;

(ii) Certificate value;

(iii) Date of issue;

(iv) Expiration date;

(v) Date of redemption; and

(vi) If awarded as a prize, the session and date the prize is awarded.

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

**WSR 97-09-073  
PERMANENT RULES  
GAMBLING COMMISSION**

[Filed April 22, 1997, 11:05 a.m., effective July 1, 1997]

Date of Adoption: April 16, 1997.

Purpose: These rules establish commercial amusement game rules. WSR 96-20-026 (CR-101).

Citation of Existing Rules Affected by this Order: Amending WAC 230-02-520, 230-04-138, 230-08-060, 230-20-600, 230-20-630, and 230-12-230.

Statutory Authority for Adoption: RCW 9.46.070 (1), (3), (8), (9), (11), (13), (14), (20), 9.46.0331.

Adopted under notice filed as WSR 97-03-093 on January 17, 1997.

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 1, repealed 0.

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Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: July 1, 1997.

April 21, 1997

Soojin Kim

Rules and Policy Coordinator

**AMENDATORY SECTION** (Amending Order 227, filed 9/18/91, effective 10/19/91)

**WAC 230-02-520 School-aged minors defined.** School-aged minors are defined as persons that are at least six years old and who have not reached an age of ~~(18)~~ eighteen years.

**AMENDATORY SECTION** (Amending Order 300, filed 7/23/96 [9/18/96], effective 10/19/96)

**WAC 230-04-138 Commercial amusement games—Authorized locations.** (1) Amusement games may only be conducted by commercial amusement game licensees when operated as a part of, and/or upon the site of:

(a) Any agricultural fair as authorized under chapter 15.76 or 36.37 RCW; or

(b) A civic center of a county, city or town; or

(c) A world's fair or similar exposition which is approved by the Bureau of International Expositions at Paris, France; or

(d) A community-wide civic festival held not more than once annually and sponsored or approved by the city, town, or county in which it is held; or

(e) A commercial exposition organized and sponsored by an organization or association representing the retail sales and service operators conducting business in a shopping center or other commercial area developed and operating for retail sales and service, but only upon a parking lot or similar area located in said shopping center or commercial area for a period of no more than seventeen consecutive days by any licensee during any calendar year; or

(f) An amusement park. An amusement park is a group of activities, at a permanent location, to which people go to be entertained through a combination of various mechanical or aquatic rides, theatrical productions, motion picture and/or slide show presentation with food and drink service. The amusement park must include at least five different mechanical or aquatic rides, three additional activities and the gross receipts must be primarily from these amusement activities; or

(g) Within a regional shopping center. A regional shopping center is a shopping center developed and operated for retail sales and service by retail sales and service operators and consisting of more than six hundred thousand gross square feet not including parking areas. Amusement games conducted as a part of, and upon the site of, a regional shopping center shall not be subject to the prohibition on leases of premises based on a percentage of gambling receipts set forth in RCW 9.46.120; or

(h) Any location that possesses a valid license from the Washington state liquor control board and prohibits minors on their premises; or

(i) Movie theaters, bowling alleys, miniature golf course facilities, skating facilities, and amusement centers. For the purposes of this section an amusement center shall be defined as a permanent location whose primary source of income is from the operation of ten or more amusement devices; or

(j) Any business whose primary activity is to provide food service for on premises consumption; or

(k) Within a department or grocery store (A grocery store is any retail store selling a) whose primary business is the retail sale of a full line of clothing, accessories, and household goods, or a full line of dry grocery, canned goods, or nonfood items plus some perishable items, or a combination of both, and consisting of more than (twelve) ten thousand gross square feet of retail and support space not including the parking areas; or

(l) Any premise controlled and operated by a bona fide charitable/nonprofit organization that it currently licensed to operate punchboards and pull tabs and/or bingo if the rent or other consideration paid to the charitable/nonprofit organization is equal to or greater than twenty-two percent of the gross gambling receipts of the activity.

(2) No amusement games may be conducted in any location except in conformance with local zoning, fire, health, and similar regulations.

(3) No amusement games may be conducted in any location(s) without first having obtained written permission to do so from the person or organization owning the premises or property where the activity will be operated. If the games are conducted as a part of or in conjunction with any of the activities set out in subsection (1)(a), (b), (c), (d), or (e) of this section, written permission must be obtained from the person or organization sponsoring the activity.

(4) All rental agreements relating to use of a premises or site to conduct amusement games must be submitted to the commission as a part of the application.

(5) Any operator licensed to conduct Class B or above amusement games may enter into a contract with the business owner of any of the locations set out in subsection (1)(f), (g), (h), (i), (j), (k), or with charitable/nonprofit organizations set out in subsection (l) of this section to locate and operate amusement games upon their premises if they are licensed to conduct amusement games. All such contracts must be written and specific in terms, setting out the time of the contract, amount of rent or consideration, rent due dates, and all expenses to be borne by each party.

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

**AMENDATORY SECTION** (Amending Order 244, filed 9/15/93, effective 10/16/93)

**WAC 230-08-060 Commercial amusement game records.** Licensees for the operation of commercial amusement games shall be required to prepare a detailed record for each ~~((game or concession))~~ location games are operated. These records shall be maintained for a period of not less than three years. These records shall ~~((be recorded using a prescribed format provided by the commission and))~~ include details necessary to determine the gross gambling receipts received from players, the value of prizes awarded, and the

fact that prizes were awarded to winners. Records shall include the following:

(1) ~~The gross gambling receipts collected from ((each separate)) amusement games at each location or concession, supported by proper receipting records. ((The minimum €)) Records shall contain an entry for each withdrawal of receipts from ((a)) the games ~~((For))~~ : Provided, That coin or token activated amusement games ((with coin in meters)) that meet standards set forth in WAC 230-20-700 shall only require an entry of the ending meter reading, the number of plays, and gross gambling receipts at the end of each month: Provided further, That a summary of the operation of the activity, which includes at least coin-in meter readings and gross gambling receipts, shall be provided to charitable/nonprofit organizations each time a game is serviced and/or moneys disbursed. ~~((the minimum entry will be the coin in meter reading at the time of each withdrawal of receipts of a game: Provided, That a summary of the operation of the activity, which includes at least coin in meter readings and gross gambling receipts, shall be provided to charitable/nonprofit organizations each time a game is serviced and/or moneys received));~~~~

(2) The number and actual cost of merchandise prizes awarded for each location reported at a minimum on a monthly basis. ~~((The minimum records shall contain an entry of the number and actual cost of prizes each time prizes are added to the inventory of a game or concession and when disbursements are made for prizes));~~

(3) For amusement games that issue tickets for the redemption of prizes the minimum entry shall be a log of the beginning/ending non-resettable ticket out meters or ticket numbers at each collection of funds from each game ((ticket numbers at the end of the month for each game)); and

(4) Full details on all expenses ((including:  
~~(a) All cash disbursements;~~  
~~(b) The number and actual cost of all prizes purchased;~~  
~~(c) All other expenses directly related to the conduct of amusement games; and~~  
~~(d) All disbursements of receipts to locations authorized by WAC 230-04-138))~~ directly related to the conduct of licensed amusement games for each licensee.

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

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

**AMENDATORY SECTION** (Amending Order 55, filed 6/25/76)

**WAC 230-20-600 Amusement games—Licensee to give notice to local police jurisdiction prior to conducting—Inspection of equipment by police.** No person licensed to conduct amusement games shall conduct any such games at any location within the state of Washington without having first given notice to the local police agency of the jurisdiction within which the amusement games are to be conducted. Such notice shall be in writing, addressed to the head of the local police agency, and shall

be delivered no less than ten days in advance of the date upon which the amusement games are to be conducted: *Provided*, That this time may be reduced by the chief officer of the local law enforcement agency for good cause shown.

Such notice shall include the following information:

(1) The name and address of the licensee, and the name and local address of the person exercising managerial authority over the conduct of the games at that location;

(2) The date or dates the amusement games will be conducted;

(3) The location at which the amusement games will be conducted.

The licensee shall not utilize any equipment in the conduct of the amusement games unless the equipment has been available for inspection by the local police agency for a period of two hours immediately preceding such utilization.

(4) The requirements in this section shall not apply to locating individual commercial amusement games at an existing location.

**AMENDATORY SECTION** (Amending WSR 95-12-051, filed 6/2/95, effective 7/3/95)

**WAC 230-20-630 Amusement games—Fees, rules, prizes and variations in objects to be posted—Fees to be paid in cash or scrip—Prizes not to differ from those posted. Amusement game operators shall fully inform players regarding all aspects of the activity, including at least the following:**

(1) No person shall conduct any amusement game at any location within the state of Washington unless ~~((there is posted in a conspicuous place, readily visible to persons playing the game, a sign(s)))~~ players are notified of the cost to play, rules of play, and prizes available. Notification shall be by posting of a sign that is readily visible, unobstructed from view, made of permanent material, such as wood, poster board, metal or plastic ~~((with))~~, and all required information is imprinted by use of lettering at least one and one-half inches in height ~~((that contains the following information))~~: *Provided*, That if the activity is a coin or token activated game and all aspects of the activity are within four feet of the player, the sign and information required by this subsection may either be preprinted on the machine by the manufacturer or by a sign attached to the machine. The lettering for such signs may be smaller than one and one-half inches in height as long as the sign is conspicuous and legible to players. The following information shall be imprinted on signs required by this section:

(a) Fees charged for playing;

(b) The rules by which the game is to be played;

(c) Prizes or numbers of tickets to be won;

(d) Any variation in the size or weight of objects utilized in the game which is not readily visible to the player;

(e) The name of the operator and an assigned concession number, if applicable; and

(f) The group number of the game being conducted.

(2) ~~((Licensed amusement game operators))~~ All licensees operating amusement games under a "limited location" license shall assign each concession a number and a list of all concessions and their assigned numbers shall be kept available in the concession office.

(3) No amusement games shall be conducted wherein the price charged for playing said game is paid other than in cash, or in an amount other than that posted upon the premises of said game. The term "cash" as used herein shall include checks. In addition, the operator may accept as consideration, tokens, scrip or tickets, but only under the following conditions:

(a) The value of each token, ticket or item of script, as measured by the equivalent amount of cash which a player would have to present in lieu of said token, ticket or scrip, must be indicated on the face thereof;

(b) Said tokens, tickets or scrip are not redeemable for cash;

(c) Said tickets or scrip shall bear the name of the operator or sponsor.

(4) No amusement games shall be conducted within the state of Washington wherein the prize to be given to a prospective winner is other than that posted upon the premises of said game: *Provided, however*, That after an individual player has won two or more prizes, an operator may offer said player the opportunity to exchange said prizes for one or more other prizes, but only if the prize to be received by the player in exchange was on display during the play of the game. Any prize system which requires forfeiture of previously won prize(s) in exchange for another play is prohibited. Operators of amusement games may utilize a scheme for distribution of prizes wherein the winners of individual prizes receive tickets, which are subsequently redeemable in combination with other tickets won for a merchandise prize.

**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 15, filed 4/17/74)

**WAC 230-12-230 Agreements restricting freedom to buy and sell—Prohibited. (1) Except as provided in subsections (3) ad (4), n((H))o person shall enter into any agreement, expressly or implied, with any other person which requires any person to purchase exclusively from, or sell exclusively to, any other person, or which prohibits any person from purchasing from or selling to any other person, any devices, materials, products, equipment or services which are used or offered in any way in connection with a gambling activity.**

(2) No person shall enter into any agreement, express or implied, wherein any person is prohibited from, or required to, make purchases or sales only within a particular geographic area: *Provided*, That such agreements may be entered into between a licensee and its licensed representative.

(3) For amusement games, a person may enter into an agreement with another person for a period up to three years requiring such person to purchase exclusively from or sell exclusively to such other person, amusement games. The agreement may provide that it shall be automatically renewed for another three year period, or successive three year periods, if neither party gives termination notice of the agreement at least thirty days prior to its termination date.

(4) As related exclusively to amusement games, a person may enter into an agreement with another person for a period up to three years requiring such person to purchase exclusively from or sell exclusively to such other person, devices, materials, products, equipment, or services which are used in connection with a particular amusement game. The agreement may provide that it shall be automatically renewed for another three year period, or successive three year periods, if neither party gives termination notice of the agreement at least thirty days prior to its termination date.

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 97-09-098**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed April 23, 1997, 11:10 a.m.]

Date of Adoption: April 23, 1997.

Purpose: To update and modify the state's rules relating to apple maggot and plum curculio quarantine and to ensure that, before plant health quarantine action is taken which could result in grave economic consequences to the state's tree fruit industry, it is determined that there is an established, reproducing apple maggot or plum curculio population present.

Citation of Existing Rules Affected by this Order: Amending WAC 16-470-100.

Statutory Authority for Adoption: RCW 17.24.041.

Adopted under notice filed as WSR 97-04-089 on February 5, 1997.

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 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 1, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 23, 1997

Jim Jesernig  
Director

**AMENDATORY SECTION** (Amending Order 2071, filed 1/23/91, effective 2/23/91)

**WAC 16-470-100 Quarantine—Apple maggot and plum curculio—Area under order.** (1) The following areas are declared by the director to be under quarantine for apple maggot:

(a) Exterior quarantine. All states or foreign countries where apple maggot is (~~(known to occur)~~) established, including but not limited to the states of North Dakota, South Dakota, Nebraska, Oklahoma, and Texas, and all states east thereof including the District of Columbia, and the states of Idaho, Oregon, Utah, and California, and any other areas where apple maggot is (~~(detected)~~) established.

(b) Interior quarantine. The entire counties of Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Klickitat, Lewis, Mason, Pacific, Pierce, Snohomish, Spokane, Skamania, Thurston and Wahkiakum, and any other counties where apple maggot is (~~(detected)~~) established.

(c) Regional area quarantine. When mutually agreed upon, and formally accepted by the directors of the Washington state department of agriculture and Oregon state department of agriculture the following shall apply: In Oregon state the counties of Wasco and Hood River and in Washington state the counties of Skamania and Klickitat will be considered a single production area. Commercial fruit produced in these counties may move freely throughout this production area unless regulatory measures as prescribed in WAC 16-470-120 are implemented.

(2) The following areas are declared by the director to be under quarantine for plum curculio: Utah, and, in the eastern United States, all states and districts east of and including the states of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and any other areas where plum curculio is (~~(detected)~~) established.

(3) The following definitions shall apply to WAC 16-470-100 through 16-470-120:

(a) "Apple maggot (*Rhagoletis pomonella*)" means a dipterous insect belonging to the family Tephritidae which in the larval stage lives within fruit of its host plants with potential for causing extensive damage to fruit of certain crops.

(b) "Established" means present in a country, state, county or other area, multiplying and expected to continue.

(c) "Plum curculio (*Conotrachelus nenuphar*)" means a coleopterous insect of the family Curculionidae which in the larval stage lives within the fruit of its host plants with potential for causing extensive damage to fruit of certain crops.

(~~((e))~~) (d) "Threatened with infestation" means that any life stage of apple maggot or plum curculio has been found within one-half mile of production site including any portion of an orchard outside or beyond the one-half mile boundary if any portion of the orchard is within the one-half mile area.

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WSR 97-09-112
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)
[Filed April 23, 1997, 11:40 a.m.]

Date of Adoption: April 23, 1997.

Purpose: Corrects cross reference. Adopts new standards for the medically needy income level and community spouse resource level.

Citation of Existing Rules Affected by this Order: Amending WAC 388-507-0710 and 388-513-1350.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.575.

Other Authority: RCW 74.04.057.

Adopted under notice filed as WSR 97-07-023 on March 12, 1997.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 2, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 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 2, repealed 0.

Effective Date of Rule: Thirty-one days after filing.

April 23, 1997

Merry A. Kogut, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3963, filed 4/10/96, effective 5/11/96)

WAC 388-507-0710 AFDC-related medical income standards. (1) The department shall determine income standards for AFDC-related clients as described under WAC 388-505-0590 (2) and (4).

(2) Effective January 1, ((1996)) 1997, the department shall set the medically needy income level (MNIL) at:

Table with 2 columns: Category (a-j) and Amount (\$). (a) One person \$ ((496)) 512, (b) Two persons \$ 592, (c) Three persons \$ 667, (d) Four persons \$ 742, (e) Five persons \$ 858, (f) Six persons \$ 975, (g) Seven persons \$1,125, (h) Eight persons \$1,242, (i) Nine persons \$1,358, (j) Ten persons and above \$1,483

AMENDATORY SECTION (Amending Order 3963, filed 4/10/96, effective 5/11/96)

WAC 388-513-1350 Institutional—Available resources. (1) Resources are defined under chapter 388-511 WAC for an SSI-related client and under WAC 388-22-030 for an AFDC-related client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-513-1310, 388-513-1330, 388-513-1340, and 388-513-1360. Transfers of resources are evaluated under WAC 388-513-1365.

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

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

(b) Who remains continuously institutionalized.

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

(a) Community resources when jointly held in the:

(i) Names of both the institutionalized and community spouse; or

(ii) Name of the institutionalized spouse only.

(b) The separate property of the community spouse when:

(i) Held in the separate name of the community spouse; or

(ii) Transferred between spouses as described under WAC ((388-513-1370(6))) 388-513-1350(7).

(5) The department shall:

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

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

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

(a) Is absent from an institution; or

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

(7) For the purpose of determining Medicaid eligibility of a person, whose most recent continuous period of institutionalization starts on or after October 1, 1989, the department shall:

(a) Exclude resources as described under WAC 388-511-1160; except, the department shall exempt one vehicle without regard to use or value when the institutionalized person has a community spouse;

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

(i) Seventy-((six)) nine thousand ((seven hundred forty)) twenty dollars effective January 1, ((1996)) 1997;

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

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

(c) Ensure resources available to the community spouse are in the name of the community spouse or transferred to

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the community spouse or to another person for the sole benefit of the community spouse:

(i) Before the first regularly scheduled eligibility review;

or

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

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

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

(a) Unavailable to the institutionalized spouse:

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

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

(b) Available to the institutionalized spouse when the institutionalized spouse:

(i) Acquires resources which, when added to resources held by the institutionalized spouse, exceed the one-person resource maximum, if the most recent period of institutionalization began on or after October 1, 1989; or

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



**WSR 97-09-001**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Fisheries)

[Order 97-60—Filed April 2, 1997, 1:26 p.m.]

Date of Adoption: April 2, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-57-31500C; and amending WAC 220-56-285 and 220-57-315.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: An emergency regulation is necessary to maintain recreational harvest of sturgeon in Bonneville Pool within harvest guidelines. Harvestable numbers of salmon are available in the Klickitat River for a recreational fishery. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

April 2, 1997  
 Bern Shanks  
 Director

**NEW SECTION**

**WAC 220-56-28500J Sturgeon—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-285, effective April 5, 1997 until further notice it is unlawful to retain sturgeon from the Columbia River and its tributaries from Bonneville Dam to the Dalles Dam.

**NEW SECTION**

**WAC 220-57-31500D Klickitat River.** Notwithstanding the provisions of WAC 220-57-315, effective April 2 through May 31, 1997: Special daily limit of one salmon greater than 12 inches in length or one hatchery steelhead, in those waters of the Klickitat River from the mouth upstream to the Fisher Hill Bridge. Open on Wednesday

and Saturdays only. Nonbuoyant lure and night closure restrictions apply to the fishery provided for in this section.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-57-31500C Klickitat River.

**WSR 97-09-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
 (Fisheries)

[Order 97-61—Filed April 4, 1997, 3:08 p.m.]

Date of Adoption: April 4, 1997.

Purpose: Subsistence fishery.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-32-05500B; and amending WAC 220-32-055.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are available for a subsistence fishery. This conforms state rules with Yakama Indian Nation regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

April 4, 1997  
 Dirk Brazil  
 for Bern Shanks  
 Director

**NEW SECTION**

**WAC 220-32-05500B Columbia River tributaries—Subsistence.** Notwithstanding the provisions of WAC 220-32-055, effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, Klickitat River,

Wind River, Icicle River and Ringold in the Columbia River except under the following provisions:

(1) The Yakima River from Horn Rapids Dam to Wapato Dam is open noon Tuesday to 6:00 p.m. Saturday of each week from April 8 to June 21, 1997.

(2) The Klickitat River from the site of the former Swinging Bridge (RM 1.5) to Fishway No. 5 (RM 2.2) is open noon Wednesday to 6:00 p.m. Saturday of each week from April 2 to May 31, 1997.

(3) The Wind River from the mouth to a marker 400 feet downstream of Shipperd Falls is open from 6:00 a.m. Monday to 6:00 p.m. Saturday of each week from March 31 to June 7, 1997 and from 200 feet above the Shipperd Falls upstream to a marker 30 feet below the outlet stream for Carson National Fish Hatchery is open noon Wednesday to 6:00 p.m. Saturday of each week from June 4 to June 28, 1997.

(4) The Icicle River where it borders the property of the U.S. Fish and Wildlife National Fish Hatchery at Leavenworth is open from 9:00 p.m. Wednesday to noon Saturday of each week from May 7 to June 21, 1997.

(5) The Columbia River from the marker located approximately 1/2 mile upstream of Spring Creek (Ringold Hatchery rearing pond outlet) downstream to a boundary marker approximately 1/4 mile downstream of Ringold waterway outlet, is open from 6:00 a.m. Monday to 6:00 p.m. Saturday of each week from May 5 to July 26, 1997. Fishing may be conducted from the riverbank on the hatchery side of the Columbia River only; fishing is not allowed from boats.

(6) ALLOWABLE GEAR: Dipnets, setbag net, or rod and reel with bait or lures. All other fishing gear and methods, including snagging are unlawful.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. July 26, 1997:

WAC 220-32-05500B Columbia River tributaries—  
Subsistence.

**WSR 97-09-008**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 97-62—Filed April 4, 1997, 3:10 p.m., effective April 16, 1997, 12:01 a.m.]

Date of Adoption: April 4, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-57-160, 220-57-290, and 220-57-319.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are available in the Columbia and Icicle rivers for a recreational fishery. Area and daily limit restrictions are necessary to ensure escapement need are met. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 16, 1997, 12:01 a.m.

April 4, 1997

Dirk Brazil  
for Bern Shanks  
Director

#### NEW SECTION

**WAC 220-57-16000I Columbia River.** Notwithstanding the provisions of WAC 220-57-160, effective May 1 through July 31, 1997: Special daily limit of two salmon greater than 12 inches in length in those waters of the Columbia River from marker 1/2 mile above Spring Creek (Ringold Hatchery rearing pond outlet) downstream to markers 1/4 mile below the Ringold wasteway outlet. Bank fishing only on the hatchery side of the river only.

#### NEW SECTION

**WAC 220-57-29000U Icicle River (Creek)** Notwithstanding the provisions of WAC 220-57-290, effective May 8 through June 8, 1997: Special daily limit of one salmon greater than 12 inches in length or one hatchery steelhead in those waters of Icicle River (Creek) from boundary markers at the mouth of the Icicle upstream to 400 feet below Leavenworth National Fish rack. Nonbuoyant lure and night closure restrictions apply to the fishery provided for in this section.

#### NEW SECTION

**WAC 220-57-31900M Lewis River.** Notwithstanding the provisions of WAC 220-57-319:

(1) Effective April 16 through July 31, 1997 it shall be unlawful to take, fish for or possess salmon in those waters of the Lewis River (North Fork) from a line from the mouth of Johnson Creek to a boundary marker on the opposite shore upstream to the overhead powerlines below Merwin Dam.

(2) Effective April 16 through July 31, 1997 special daily limit of one salmon greater than 12 inches in length in those waters of the Lewis River (North Fork) from the

mouth upstream to a line from the mouth of Johnson Creek to a boundary marker on the opposite shore.

(3) Effective April 16 through July 31, 1997 special daily limit of one salmon greater than 12 inches in length in those waters of the mainstem Lewis River from boundary markers at the mouth upstream to the mouth of the East Fork Lewis River.

**WSR 97-09-009**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 97-63—Filed April 4, 1997, 3:13 p.m., effective April 7, 1997, noon]

Date of Adoption: April 4, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05700V; and amending WAC 220-32-057.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of sturgeon are available and these rules are adopted to conform with regulations adopted by treaty tribes to harvest their allotment of available sturgeon.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 7, 1997, noon.

April 4, 1997  
Dirk Brazil  
for Bern Shanks  
Director

**NEW SECTION**

**WAC 220-32-05700V Columbia River sturgeon seasons above Bonneville.** (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line

gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon in Columbia River Salmon Management and Catch Reporting Area 1H using set line gear effective noon April 7, 1997 through noon June 14, 1997.

(2) During the season specified in section 1, it is unlawful:

(a) To retain for commercial purposes sturgeon less than 48 inches or greater than 60 inches in length.

(b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.

(c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(d) To deliver to a wholesale dealer or fish buyer sturgeon that have been dressed (not in the round).

(3) During the season specified in section 1, it shall be unlawful to use set line gear:

(a) With more than 100 hooks per set line;

(b) With hooks less than the minimum size of 9/0;

(c) With treble hooks; or

(d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the season specified in section 1:

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John day Dam.

(c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John day River, Oregon, to a fishing boundary marker on the Washington shore 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 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 noon June 14, 1997:

WAC 220-32-05700V	Columbia River sturgeon seasons above Bonneville. (97-63)
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**WSR 97-09-028**  
**EMERGENCY RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed April 10, 1997, 11:10 a.m.]

Date of Adoption: April 10, 1997.

Purpose: Allows an additional reason to grant a temporary appointment and allows an employee given a temporary appointment to a position that normally would have been filled permanently except for the possibility of a reduction-in-force, the ability to enter a probationary period under certain criteria.

Citation of Existing Rules Affected by this Order: Amending WAC 356-30-065 and 356-30-067.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Other Authority: RCW 41.06.150.

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 of Social and Health Services (DSHS) has already made temporary appointments under the parameters set out in the rule amendment. DSHS has determined that no reduction-in-force actions are likely at this point and is prepared to have these temporary appointments converted to permanent positions. Delaying adoption of a rule authorizing this would adversely affect the morale of the employees in question, would delay their receiving the full benefits of permanent status and would result in lost productivity of both management and the employees.

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 2, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 2, repealed 0.

Effective Date of Rule: Immediately.

April 10, 1997

Dennis Karras

Secretary

**AMENDATORY SECTION** (Amending WSR 88-18-096 (Order 308), filed 9/7/88, effective 11/1/88)

**WAC 356-30-065 Temporary appointments—From outside state service.** (1) Temporary appointments may be made to classified positions during the absence of a permanent employee, to reduce the effects of an impending reduction in force, or during a workload peak when there is a need to fill a position for not more than nine months or

1560 nonovertime hours or while recruitment is being conducted to establish a complete register.

(2) Temporary appointments may be made at a lower level than the allocation of the position being filled provided the class falls within the same or a related class series.

(3) Temporary appointments shall be approved by the director of personnel, or designee. Single or multiple temporary appointments shall last no more than nine months or 1560 nonovertime hours within a twelve-month period. Time spent in emergency appointments will be counted in the 1560 hours.

(4) No temporary appointment of an employee who has worked for the agency for nine months or 1560 nonovertime hours within the last twelve months may be made without a three-month break in service. Consecutive nonpermanent appointments of the same person in the same agency which would cause the employee to work more than 1560 nonovertime hours in a twelve-month period can only be made with the approval of the director of personnel. Extensions of temporary appointments of persons from outside classified service may be granted when a permanent employee's leave extends beyond nine months or 1560 nonovertime hours or as otherwise approved by the director of personnel. Such extensions must be approved by the director of personnel.

(5) Temporary appointees must meet the minimum qualifications of the class to which they are appointed unless the director of personnel determines that program needs demand otherwise. Established registers, certification, and referral services are available and may be used when making temporary appointments.

(a) An employee given a temporary appointment following certification from the register to fill a position in the absence of a permanent employee may enter a probationary period when the permanent employee does not return to the position and the agency needs to fill the position permanently.

(b) An employee given a temporary appointment to a position that normally would have been filled permanently except for the possibility of a reduction in force, may enter a probationary period in the position when the following criteria are met:

(i) Prior to the temporary appointment(s), a written mutual agreement regarding the temporary and permanent appointment process shall be reached between the agency and the affected exclusive representative, if any.

(ii) Prior to the temporary appointment(s), written notice of the temporary and permanent appointment process shall be given to affected employees.

(iii) When these temporary appointments are made, established registers, certification and referral process shall be used.

(c) The agency will notify the exclusive representative in writing when requesting the director to approve a change in status under (5)(b).

(d) The director must approve ~~((the))~~ or deny any change in status ~~((before it occurs))~~ under 5(a) and (b) of this section. Time served in a temporary appointment will not be counted as part of the probationary period.

(6) Compensation of temporary employees shall be consistent with the rules unless exempted by RCW 41.06.070 and WAC 356-06-020.

(7) Merit system rules governing all forms of leave will apply to temporary employees unless exempted by RCW 41.06.070 and WAC 356-06-020.

(8) An employee's temporary appointment may be ended by stipulating a termination date in the appointment letter or by giving one full working day's notice prior to the effective date. The employee receiving such notice shall not have the right of appeal or hearing.

(9) The appointing authority shall advise the temporary employee of the temporary status of the appointment. Temporary employees not appointed from within the classified service have no appeal rights.

(10) The director of personnel shall monitor temporary appointments made pursuant to this section and may revoke delegated authority where abuse is found.

**AMENDATORY SECTION** (Amending WSR 91-20-029 (Order 383), filed 9/23/91, effective 11/1/91)

**WAC 356-30-067 Temporary appointments from within classified service.** (1) Temporary appointments may be made with the approval of the director of personnel or designee to classified positions during the absence of a permanent employee, to reduce the effects of an impending reduction in force, or during a workload peak when there is a need to fill a position for not more than nine months or 1560 nonovertime hours or while recruitment is being conducted to establish a complete register.

(2) Temporary appointments may be made at a lower level than the allocation of the position being filled provided the class falls within the same or a related class series.

(3) All temporary appointments to supervisory or managerial positions must be made from within state service unless the director determines that such action is not practicable.

(4) Established registers, certification, and referral services are available and may be used when making temporary appointments.

(a) An employee certified from the register to fill a position in the absence of a permanent employee may enter a probationary or trial service period and subsequently gain permanent status when the permanent employee does not return to the position and the agency needs to fill the position permanently.

(b) An employee given a temporary appointment to a position that normally would have been filled permanently except for the possibility of a reduction in force, may enter a probationary or trial service period in the position when the following criteria are met:

(i) Prior to the temporary appointment(s), a written mutual agreement regarding the temporary and permanent appointment process shall be reached between the agency and the affected exclusive representative, if any.

(ii) Prior to the temporary appointment(s), written notice of the temporary and permanent appointment process shall be given to affected employees.

(iii) When these temporary appointments are made, established registers, certification and referral process shall be used.

(c) The agency will notify the exclusive representative in writing when requesting the director to approve a change in status under (4)(b).

(d) The director of personnel must approve ((the)) or deny any change in status ((before it occurs)) under 4(a) and (b) of this section. Time served in a temporary appointment will not be counted as part of the probationary or trial service period.

(5) Temporary appointees must meet the minimum qualifications of the class to which they are appointed unless the director of personnel determines that program needs demand otherwise. Upon termination of such temporary appointment, permanent or probationary employees shall have the right to resume a permanent position within their permanent agency at their former status except as provided in (6) below. The employee's salary upon return will be determined as if the employee had remained in the permanent position.

(6) An employee who accepts a temporary appointment to a higher class in the same series in the same work unit shall continue the probationary or trial service period for the lower class.

(7) Temporary appointments made from within classified service will normally last no more than nine months or 1560 nonovertime hours for single or multiple appointments. An extension may be approved by the director when a temporary appointment is made to replace a permanent employee who has been granted a leave of absence, when temporarily filling a supervisory or managerial position when there is reorganization pending, or as otherwise approved by the director. Temporary appointments may extend to thirty days after the date the permanent employee returns or the position is filled permanently. Time spent in emergency appointments will be counted in the 1560 hours.

(8) Compensation for temporary appointees shall be made in accordance with the rules governing promotions, demotions, or transfers.

(9) The director of personnel shall monitor temporary appointments made pursuant to this section and may revoke delegated authority where abuse is found.

**WSR 97-09-033**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
(Fisheries)

[Order 97-64—Filed April 11, 1997, 2:38 p.m., effective April 12, 1997, 12:01 a.m.]

Date of Adoption: April 11, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are necessary to comply with a recently negotiated state/tribal Puget Sound shrimp harvest management plan and meet treaty sharing

requirements. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 12, 1997, 12:01 a.m.

April 11, 1997

Lisa Pelly  
for Bern Shanks  
Director

**NEW SECTION**

**WAC 220-56-32500L Shrimp—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-325, effective 12:01 a.m. April 12, 1997 until further notice:

(1) It is unlawful to possess spot shrimp taken for personal use from Catch Record Card Areas 5, 6, 7, 8, 9, 10, 11 and 13 that are less than six inches in length.

(2) It is unlawful to land spot shrimp that are less than six inches in length in Catch Record Areas 5, 6, 7, 8, 9, 10, 11 and 13.

(3) The length of spot shrimp is measured from the tip of the rostrum to the tip of the tail.

(4) Effective 12:01 a.m. April 12, 1997 until further notice Shrimp District 2 (Griffin Bay) is open to personal use shrimp fishing.

**WSR 97-09-044  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

(Fisheries)

[Order 97-65—Filed April 15, 1997, 1:40 p.m., effective April 16, 1997, 12:01 a.m.]

Date of Adoption: April 11, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-88A-070 and 220-88A-080.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These regulations are necessary to meet harvest allocation and conservation needs for harvestable shrimp populations as identified in state/tribal management agreements. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: April 16, 1997, 12:01 a.m.

April 11, 1997

L. W. Peck  
for Bern Shanks  
Director

**NEW SECTION**

**WAC 220-88A-07000J Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions.** Notwithstanding the provisions of WAC 220-88A-070, effective 12:01 a.m. April 16, 1997 until further notice:

(1) Shrimp District 2 (Griffin Bay) is open for the commercial harvest of shrimp.

(2) It is unlawful to possess spot shrimp taken by shellfish pot gear with a carapace length of less than 30 millimeters. Carapace length is measured from the posterior middorsal margin to the posterior most part of the eye-stalk orbit.

(3) There is no minimum mesh size for shellfish pot gear in Shrimp District 2 (Griffin Bay).

(4) Closed in Marine Fish Shellfish Management and Catch Reporting Areas 20A, 21A, 21B, 22A (outside San Juan Channel) and 22B. San Juan Channel is that portion of 22A north of a line projected true east from Cattle Point on San Juan Island to Lopez Island, west of a line projected from the number 2 buoy at the entrance to Fisherman Bay on Lopez Island to the southern tip of Shaw Island, west of a line projected true north and south from the western tip of Crane Island, and south of the southern boundary of Marine Fish Shellfish Catch Reporting Area 20B.

**NEW SECTION**

**WAC 220-88A-08000J Emerging commercial fishery—Puget Sound shrimp trawl experimental fishery—Seasons and gear.** Notwithstanding the provisions of WAC 220-88A-080, effective 12:01 a.m. April 16, 1997, until further notice, it is unlawful to fish for or possess shrimp taken for commercial purposes in Puget Sound using

EMERGENCY

shellfish beam trawl gear except as provided for in this section:

(1) **Open** - Marine Fish Shellfish Management and Catch Reporting Areas 20A, 21A, 22A, 23A, 23B, 23C, 25A, and 29, except as provided for in this section.

(2) The following areas are closed to beam trawl gear:

(a) Marine Fish Shellfish Management and Catch Reporting Area 20A is closed through July 15, 1997. Beginning July 16, 1997 open in waters greater than 20 fathoms depth only.

(b) Those waters of Marine Fish Shellfish Management and Catch Reporting Area 21A, south and east of a line from the southern tip of Sinclair Island to Carter Point on Lummi Island.

(c) Those waters of Marine Fish Shellfish Management and Catch Reporting Area 22A east of a line projected true south from Deer Point on Orcas Island to Blakely Island and east of a line projected true south from the southernmost point of Blakely Island to Decatur Island, and east of a line projected true south from the southernmost point of Decatur Island to Lopez Island.

(3) It is unlawful to harvest and retain spot shrimp, or any other species other than Pandalid shrimp.

**Reviser's note:** The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 97-09-067  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)**

[Order 97-69—Filed April 21, 1997, 4:58 p.m.]

Date of Adoption: April 21, 1997.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-88A-07000J; and amending WAC 220-88A-070.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These regulations are necessary to meet harvest allocation and conservation needs for harvestable shrimp population as identified in state/tribal management agreements. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, amended 0, repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: Immediately.

April 21, 1997  
Evan Jacoby  
for Bern Shanks  
Director

NEW SECTION

**WAC 220-88A-07000K Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions.** Notwithstanding the provisions of WAC 220-88A-070, effective immediately until further notice:

(1) It is unlawful to commercially fish for shrimp with shellfish pot gear in Marine Fish Shellfish Management and Catch Reporting Area 20B and those waters of Area 22A east of San Juan Island, north of a line projected true east from Cattle Point, west of a line from the Number 2 buoy at the entrance to Fisherman Bay to the southern tip of Shaw Island, and west of a line projected true north-south through the western tip of Crane Island.

(2) In all waters open to commercial shrimp fishing, it is unlawful to retain spot shrimp taken with shellfish pot gear that have a carapace length less than 30 millimeters. Carapace length is defined as the length between the posterior middorsal margin to the posterior-most part of the eye stalk orbit.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-88A-07000J	Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions. (97-65)
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**WSR 97-09-068  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE  
(Fisheries)  
(Wildlife)**

[Filed April 21, 1997, 4:59 p.m., effective May 1, 1997]

Date of Adoption: April 12, 1997.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-191, 220-56-195, 232-28-619, 220-57-140, 220-57-270, 220-57-377, 220-57-155, 220-57-385, and 220-57-460.

EMERGENCY

Statutory Authority for Adoption: RCW 75.08.080 and 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: To adopt sportfish rules resulting from 1997 North of Falcon agreements to become effective May 1, 1997, and to provide timely rule information consistent with rule information contained in the 1997-1998 sportfish pamphlet scheduled to be available May 1.

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 9, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

Effective Date of Rule: May 1, 1997.

April 18, 1997

Lisa Pelly, Chairperson  
Fish and Wildlife Commission

#### NEW SECTION

**WAC 220-56-19100V Puget Sound salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-56-191, the following rules apply until further notice:

**Catch Record Card Areas 5 and 6:**

(a) Special daily limit of 2 salmon April 16 through June 30 and all coho salmon must be released. During the period April 16 through June 15 all chinook salmon greater than 30 inches in length must be released.

(b) July 1 through July 31 - Closed.

**Catch Record Area 7:**

(a) May 1 through July 31 - Special daily limit of 2 salmon. During the period April 16 through June 15 all chinook salmon greater than 30 inches in length must be released.

**Catch Record Card Area 8.2:**

(a) May 1 through May 31 - Special daily limit of 2 salmon.

**Catch Record Card Area 9:**

(a) May 1 through June 30 - Special daily limit of 2 salmon.

**Catch Record Card Area 10:**

(a) Until further notice - Special daily limit of 2 salmon.

**Catch Record Card Area 12:**

(a) May 1 through July 15 - Special daily of 2 salmon.

All other provisions of WAC 220-56-191 remain in effect and unchanged.

#### NEW SECTION

**WAC 220-56-19500B Closed areas—Saltwater salmon angling.** Notwithstanding the provisions of WAC 220-56-195, the following rules apply until further notice:

The following areas shall be closed to salmon angling during the times indicated:

(1) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from April 16 through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling April 16 until further notice.

All other provisions of WAC 220-56-195 remain in effect and unchanged, except for Carr Inlet as shown above.

#### NEW SECTION

**WAC 220-57-14000R Chehalis River.** Notwithstanding the provisions of WAC 220-57-140, the following rules apply until further notice:

Daily Limit A - May 16 through July 15 - from the mouth to the high bridge on the Weyerhaeuser 1000 line approximately 400 yards downstream of Roger Creek.

#### NEW SECTION

**WAC 220-57-15500B Clearwater River (Jefferson County).** Notwithstanding the provisions of WAC 220-57-155, the following rules apply until further notice:

From the mouth to the Snahapish River: Daily Limit A, except release all coho - June 1 until further notice.

#### NEW SECTION

**WAC 220-57-27000C Hoh River.** Notwithstanding the provisions of WAC 220-57-270, the following rules apply until further notice:

(1) Daily Limit C - May 16 through August 31: Downstream from the mouth of the south fork Hoh to the Morgan's Crossing boat launch, including Olympic National Park.

(2) Daily Limit A - except release adult coho salmon - May 16 until further notice: From the mouth to the Highway 101 Bridge and single-pointed barbless hooks are required.

(3) Daily Limit A - May 16 through August 31: From the Highway 101 Bridge to Morgan's Crossing boat launch.

#### NEW SECTION

**WAC 220-57-37700A Queets River.** Notwithstanding the provisions of WAC 220-57-377, the following rules apply until further notice:

Daily Limit A, except release all coho - June 1 until further notice.

**NEW SECTION**

**WAC 220-57-38500Z Quillayute River.** Notwithstanding the provisions of WAC 220-57-385, the following rules apply until further notice:

From the mouth to the confluence of the Sol Duc and Bogachiel Rivers, including Olympic National Park waters: Daily Limit A except release coho salmon - May 1 until further notice and single-pointed barbless hooks required.

**NEW SECTION**

**WAC 220-57-46000D Sol Duc River.** Notwithstanding the provisions of WAC 220-57-460, the following rules apply until further notice:

From the mouth to the concrete pump station at the Sol Duc Hatchery: Daily Limit A except release coho salmon - May 1 until further notice and single-pointed barbless hooks required.

**NEW SECTION**

**WAC 232-28-61900I Washington game fish— Exceptions to state-wide rules.** Notwithstanding the provisions of WAC 232-28-619, the following rules apply until further notice:

1. Gray Wolf River, from confluence with the Dungeness River to bridge at River Mile One: Closed waters.

Upstream from the bridge at River Mile One: Trout, minimum length fourteen inches. Selective fishery regulations.

2. Dungeness River (Clallam County): From forks at Dungeness Forks Campground to Gold Creek: Closed waters.

All other provisions of WAC 232-28-619 remain in effect and unchanged.



**WSR 97-09-003**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON UNIVERSITY**

[Memorandum—April 3, 1997]

BOARD OF TRUSTEES  
 April 4, 1997, 9:00 a.m.  
 Cheney Campus  
 Pence Union Building  
 Room 263-65

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the PUB Board Room.

FINANCE COMMITTEE MEETING  
 Tuesday, April 1, 1997  
 2:00 - 4:00 p.m.  
 Spokane Center  
 2nd Floor, Room 222  
 (Board Room)

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 359-2371.

**WSR 97-09-004**  
**POLICY STATEMENT**  
**WASHINGTON STATE LOTTERY**

[Filed April 4, 1997, 12:25 p.m.]

The Washington State Lottery has recently adopted or revised the following policies:

POL 120.030 - DOMESTIC VIOLENCE AND THE WORKPLACE (new)

In response to Governor's Executive Order 96-05, the lottery adopted this policy, which states in part, "The Washington State Lottery will not tolerate domestic violence and will take all reasonable measures to foster a safe working environment for all employees and clients, including harassment of any employee or client while in state offices, facilities, work sites, vehicles, or while conducting state business." The policy provides support and assistance for victims and encourages perpetrators to seek assistance. The lottery's personnel office has information for its employees regarding assistance for victims or perpetrators.

Lottery management will adjust employees' work schedules to allow perpetrators to receive assistance. The reason for leave is confidential unless the need for accommodation becomes an issue (as determined by the personnel manager). However, any employee who threatens, harasses, or abuses someone at the work place or from the work place using any state resources such as work time, work place phones, FAX machines, mail, electronic mail, or other means, may be subject to corrective or disciplinary action, up to and including dismissal.

Signed February 5, 1997

POL 220.010 - PETTY CASH FUND (REGIONAL) (revision)

Monthly reconciliations of the regional petty cash funds are no longer performed by the regional petty cash trustee;

the reconciliation will instead be performed by the regional sales manager or a designee other than the petty cash trustee.

Signed March 12, 1997

POL 230.007 - INSTANT TICKET PARTIAL PACK RETURNS (revision)

The lottery continues to allow retailers to return unscratched partial packs of instant tickets under limited circumstances. Some forms/processes have changed due to capabilities of the lottery's on-line vendor. Also, district sales representatives are no longer required to telephone the regional office with information on the packs being returned. Lottery security will resolve any discrepancies between the form completed and actual tickets received if those discrepancies cannot be resolved between the regional office and the retailers.

Signed February 27, 1997

POL 250.003 - RECEIPT OF CASH (revision)

The last version of this policy dealt with "cash received for a service not provided or provided free of charge." It was determined that a receipt book will be used instead of the former cash receipt log for these circumstances.

A section on "cash received for services provided" was also added to the policy/procedure. When cash is received for services provided, it will be deposited into the lottery's local or treasury account, as determined appropriate by the technical service - banking section of the Lottery's Finance Division. The procedure includes steps taken by the employee who receives the cash, the banking section, and an operations designee to ensure the money is deposited properly.

Signed February 27, 1997

POL 250.004 - MAIL-IN PRIZE VALIDATION AND PAYMENT (revision)

The lottery's internal audit manager determined that computer system provided by the new on-line vendor provides for proper separation of duties; therefore, it is no longer required that two separate employees key in check information and apply the signature stamp. Also eliminated reference to the old terminals, updated the bar code definition for newer games, and added a definition of PIN number.

Signed February 21, 1997

POL 250.005 - WALK-IN PRIZE VALIDATION AND PAYMENT (revision)

The changes made to 250.004 above, were also made to this policy. In addition, information was added on handling "Win For Life" winners.

Signed February 21, 1997

POL 310.020 - BANNER HANGING REIMBURSEMENT PROGRAM FOR ON-LINE RETAILERS (new)

This program gives on-line retailers who "face difficulty hanging banners due to building configuration, lack of special equipment, etc." a \$30 incentive to hang a "Play Lotto Here" banner. The criteria for determining whether conditions warrant paying the incentive are as follows: 1. The banner must be hung more than ten feet above the ground and/or require a special ladder/equipment due to building construction or configuration; 2. The retailer's district sales representative (DSR) must determine that the banner will a) provide substantial on-going lottery visibility, and b) be placed in the most effective and desirable location;

3. The retailer banner hanging agreement must be signed by the retailer and his/her DSR within thirty days of installation; and 4. The retailer must select the installer and arrange for installation, or install the banner him/herself.

Retailers can receive compensation for up to two new banners. Retailers may also receive \$30 for hanging replacement banners, but that incentive is limited to one banner per year, unless the retailer's DSR determines inclement weather or other extraordinary conditions justify more frequent replacement.

Signed January 30, 1997

POL 320.004 - PROMOTIONAL SCRATCH TICKET ACQUISITION AND PROCESSING (revision)

All orders for promotional tickets are now processed by the lottery's operations section. Clarified that the requisition of promotional tickets is subject to the same dollar limits as purchasing supplies, equipment and services (managers are authorized through \$1,000; assistant directors are authorized through \$5,000; the deputy director or director must approve requisitions over \$5,000). Added that employees are subject to disciplinary action, up to and including dismissal, if promotional tickets are not used for their intended purpose.

Signed January 29, 1997

POL 320.040 - "YOU GOTTA LOVE THESE GAMES" RETAILER PROMOTION (new)

In an effort to fulfill the lottery's mandate of providing funds for the construction of a new King County baseball stadium, this new policy/procedure awards prizes to randomly selected retailers for selling (activating) packs of Instant Game Nos. 180 and 181 from March 23 through April 19. Each week during that time period, retailers will receive one entry into a drawing for each pack of tickets activated from these two games. Five retailers from each region (total of thirty per week) will win Mariner-related prizes, such as T-shirts, home game tickets, etc. One grand prize will also be awarded per each region. Each retailer receives one grand prize entry for each pack activated during the promotion. Each winner will receive a trip for two to Anaheim for a series of three Mariners-Angels games. The package also includes round trip airfare from Sea-Tac airport and three nights hotel accommodations.

Signed March 4, 1997

POL 410.003 - RECEIVING/INSPECTING/DISTRIBUTING INSTANT TICKETS (revision)

In addition to updating the reports used in this process, some lottery duties were realigned, such as: The finance designee now determines the "start distribution date," quality control now receives the game data tapes and forwards them to the on-line vendor, and the instant product manager authorizes the start of instant games. Also added that the lottery's internal audit manager audits this process at least annually.

Signed February 24, 1997

POL 440.015 - SCAN LINES, SCAN PLUS CARDS AND AGENCY-OWNED TELEPHONES (revision)

The policy continues to state that lottery employees may use the SCAN network and SCAN PLUS calling cards to conduct official state business only, and all local personal calls on lottery telephones will be kept to a minimum. Information was added on reimbursing the lottery for inadvertent personal calls made on state long distance

telephone lines. However, intentional misuse, or habitual inadvertent misuse, may result in corrective or disciplinary action, up to and including dismissal. The internal audit manager will review SCAN and SCAN PLUS usage for compliance with this policy. The supervisor must correct any misuse discovered by the internal audit manager's review.

The following information was also added to clarify responsibilities already expected of lottery employees: Employees must sign a certification stamp affixed to his/her monthly billing reports to indicate that all calls listed relate to his/her lottery job duties; and employees must protect the confidentiality of their authorization and calling card numbers, and are accountable for all long distance calls made with their authorization and calling card numbers, whether the calls were placed by them or someone else.

Signed February 27, 1997

To receive a copy of any of these policy statements, contact Becky Zopolis, Washington State Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 586-1051, FAX (360) 586-6586.

March 31, 1997  
Merritt D. Long  
Director

**WSR 97-09-005**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
**(Beef Commission)**  
[Memorandum—April 2, 1997]

There has been a change in the meeting schedule of the Washington State Beef Commission. We have rescheduled the April 24 budget meeting for May 8th. Here is the adjusted 1997 meeting schedule for the Washington State Beef Commission:

May 8 (Thursday)	Budget Meeting	Ellensburg
June 19 (Thursday)	Annual Meeting	Ellensburg
August 28, 1997 (Thursday)	Regular Meeting	TBD
November 6-8, 1997 (Thursday-Saturday)	Regular Meeting (WCF Annual Convention)	Couer d'Alene, ID

**WSR 97-09-006**  
**NOTICE OF PUBLIC MEETINGS**  
**BELLINGHAM TECHNICAL COLLEGE**  
[Memorandum—April 4, 1997]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, April 17, 1997, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105, ext. 334 for information.

MISCELLANEOUS

**WSR 97-09-011**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 [Filed April 4, 1997, 4:40 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Approval of WAC (Rules)/Delegation of Authority to Sign.

Subject: Approval of WAC (rules)/delegation of authority to sign.

Effective Date: April 1, 1997.

Document Description: This policy delegates the authority of the secretary of the Department of Social and Health Services to promulgate department Washington Administrative Code.

To receive a copy of the interpretive or policy statement, contact Michelle Meyer, Department of Social and Health Services, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, phone (360) 902-7731, TDD (360) 902-8324, FAX (360) 902-8292, e-mail mmeyer@dshs.wa.gov.

April 3, 1997  
 Philip A. Wozniak, Director  
 Administrative Services

**WSR 97-09-013**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed April 7, 1997, 11:06 a.m.]

We request chapter 296-306A WAC, Safety standards for agriculture, be recodified as chapter 296-307 WAC. It is our understanding that we can recodify our chapter without the requirement of a public hearing, based on our conversation with Lynda Ostrom on March 24, 1997.

In November 1996 we repealed chapter 296-306 WAC and replaced it with chapter 296-306A WAC. At the time we were confident that this change would not present any computer-system related problems. After adopting chapter 296-306A WAC, we discovered that our IMIS system, which creates safety and health citations, cannot accept a four-digit chapter number. Therefore, we must request the recodification to chapter 296-307 WAC.

Gary Moore  
 Director

**WSR 97-09-014**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—April 4, 1997]

EDMONDS COMMUNITY COLLEGE  
 BOARD OF TRUSTEES  
 NOTICE OF MEETINGS  
 TO MEDIA/OTHER

April 9, 1997\* Occupational Advisory Committee  
 Reception: EdCC, Triton Union

Building, 20200 68th Avenue West,  
 Room 202, 4:30-6:00 p.m.

- April 17, 1997 Board of Trustees Meeting: EdCC, Sno-King Building, 6600 196th Street S.W., Room 103, 4:00-6:30 a.m. [p.m.]
- April 17, 1997\* Greet Sons of Norway Volunteers Appreciation Ceremony: EdCC, Duplexes, 6:00 p.m. or immediately following board meeting.
- April 21, 1997 Board of Trustees Executive Session: EdCC, Sno-King Building, 6600 196th Street S.W., Room 103, 5:00 p.m.
- April 23-24, 1997\* SBCTC at South Seattle Community College, 6000 16th Avenue S.W., Seattle.
- May 1, 1997\* WACTC Meeting: Edmonds School District, 20420 68th Avenue West, Boardrooms 101 and 102, 9:00 a.m. - 5:15 p.m.
- May 1, 2-3, 1997\* TACTC Spring Convention and Annual Business Meeting: Embassy Suites, 20610 44th Avenue West, Lynnwood.
- May 5, 1997\* Chamber Golf Classic: Mill Creek Country Club, Mill Creek, 11:00 a.m. - 5:00 p.m.

\* These events are being scheduled as special meetings or study sessions where no action will be taken.

**WSR 97-09-017**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION IMPROVEMENT BOARD**  
 [Memorandum—April 4, 1997]

MEETING NOTICE FOR APRIL 1997  
 TRANSPORTATION IMPROVEMENT BOARD  
 OLYMPIA, WASHINGTON 98504-0901

- Sidewalk Committee, 12:00 p.m. - 1:00 p.m., Thursday, April 24, 1997, at the City of Bellingham Fleet and Facilities Training Room, 2221 Pacific.
- Increase Committee, 1:00 p.m. - 4:00 p.m., Thursday, April 24, 1997, at the City of Bellingham Fleet and Facilities Training Room.
- Public Transportation Committee, 4:00 p.m. - 5:00 p.m., April 24, 1997, at the City of Bellingham Fleet and Facilities Training Room.
- TIB Program Briefings, 6:00 p.m. - 8:00 p.m., April 24, 1997, at the Best Western Lakeway Inn, Whatcom Room, 714 Lakeway Drive, Bellingham.
- Work Session, 8:00 p.m., April 24, 1997, at the Best Western Lakeway Inn, Whatcom Room.
- Board Meeting, 9:00 a.m., April 25, 1997, at the Best Western Lakeway Inn, Whatcom Room.

MISCELLANEOUS

**SPECIAL NEEDS:** For special accommodations or to request an auxiliary aid, please contact the TIB office at (360) 705-7300 by April 16, 1997.

The next scheduled meeting is May 23, 1997, in Olympia. A notice with further detail of the May meeting will be mailed May 2, 1997.

**WSR 97-09-021**  
**NOTICE OF PUBLIC MEETINGS**  
**TRANSPORTATION COMMISSION**  
 [Memorandum—April 8, 1997]

Please publish the following changes and additions to the Washington State Transportation Commission's meeting schedule for 1997:

Date	Previous Location and Time	New Location and Time
June 10, 1997	Ramada Inn Kennewick 9:00 a.m.	Hampton Inn Richland 1:30 p.m.
Revised Dates	Previous Location	New Location
October 14, 15, and 16, 1997	Transportation Building Olympia	Water Resources Education Center Vancouver

**WSR 97-09-026**  
**NOTICE OF PUBLIC MEETINGS**  
**EDMONDS COMMUNITY COLLEGE**  
 [Memorandum—April 9, 1997]

EDMONDS COMMUNITY COLLEGE  
 BOARD OF TRUSTEES  
 NOTICE OF MEETINGS  
 TO MEDIA/OTHER  
Revised

April 17, 1997*	Board of Trustees Special Meeting: EdCC, Sno-King Building, 6600 196th Street S.W., Room 103, 4:00-4:30 p.m.
April 17, 1997	Board of Trustees Meeting: EdCC, Sno-King Building, 6600 196th Street S.W., Room 103, 4:30-6:00 p.m.
April 17, 1997*	Greet Sons of Norway Volunteers Appreciation Ceremony: EdCC, Duplexes, 6:00 p.m. or immediately following board meeting.
April 21, 1997	Board of Trustees Executive Session: EdCC, Sno-King Building, 6600 196th Street S.W., Room 103, 5:00 p.m.

April 23-24, 1997*	SBCTC at South Seattle Community College, 6000 16th Avenue S.W., Seattle.
May 1, 1997*	WACTC Meeting: Edmonds School District, 20420 68th Avenue West, Boardrooms 101 and 102, 9:00 a.m. - 5:15 p.m.
May 1, 2-3, 1997*	TACTC Spring Convention and Annual Business Meeting: Embassy Suites, 20610 44th Avenue West, Lynnwood.
May 5, 1997*	South Snohomish Chamber of Commerce Golf Classic: Mill Creek Country Club, Mill Creek, 11:30 a.m.

\* These events are being scheduled as special meetings which are study sessions where no action will be taken.

**WSR 97-09-027**  
**NOTICE OF PUBLIC MEETINGS**  
**PUBLIC DISCLOSURE COMMISSION**  
 [Memorandum—April 9, 1997]

The Public Disclosure Commission has cancelled its regular meeting scheduled for Tuesday, April 22, 1997. A special meeting will be held on Tuesday, April 29, 1997. Any rule adoption will take place on Tuesday, April 29, 1997, in the Second Floor Board Room, Department of Personnel, 521 Capitol Way, Olympia, WA.

**WSR 97-09-034**  
**NOTICE OF PUBLIC MEETINGS**  
**CONVENTION AND TRADE CENTER**  
 [Memorandum—April 9, 1997]

The Washington State Convention and Trade Center (WSCTC) Design Committee will meet on Wednesday, April 16, 1997, from 10:00 a.m. - 1:00 p.m. in Room 307-308 of the Convention Center, 800 Convention Place, Seattle, Washington.

A regular meeting of the WSCTC board of directors will also be held on Wednesday, April 16, 1997, at 1:30 p.m. in Room 310 of the Convention Center.

**WSR 97-09-048**  
**DEPARTMENT OF ECOLOGY**  
 [Filed April 16, 1997, 1:00 p.m.]

COMMENT PERIOD EXTENDED  
 ON CATEGORICAL EXEMPTIONS  
 (CR-101 Filing Number: WSR 97-03-130)

The Department of Ecology (ecology) announces that the comment period on categorical exemptions in the State Environmental Policy Act (SEPA) rules, previously ending on April 30, 1997, has been **extended**. Comment letters will now be accepted through **Friday, June 13, 1997**.

MISCELLANEOUS

Comment letters must address certain specific points. These points are outlined in a handout that can be obtained from ecology's home page (<http://www.wa.gov/ecology/cp/sepa/e-review.html>) or by contacting Tasha Myers at (360) 407-6924 or by e-mail ([sepaunit@ecy.wa.gov](mailto:sepaunit@ecy.wa.gov)).

Categorical exemptions are specific categories of projects that are deemed to have no significant adverse impacts upon the environment, and are thus exempt from the SEPA process. The list of existing categorical exemptions (WAC 197-11-800 through 197-11-875) has not been comprehensively reviewed since 1984. If you have any questions, contact Neil Aaland at (360) 407-7045 or by e-mail at [naal461@ecy.wa.gov](mailto:naal461@ecy.wa.gov).

**WSR 97-09-049**  
**NOTICE OF PUBLIC MEETINGS**  
**WASHINGTON STATE LIBRARY**  
 [Memorandum—April 15, 1997]

**STATESIDE PLAN FOR WASHINGTON LIBRARIES**  
**PUBLIC FORUMS**

The Washington State Library Commission and the Washington Advisory Council on Libraries (WSACL) in concert with staff from the Washington State Library will meet to develop a state-wide plan for Washington libraries. The purpose is to define a vision, develop strategic directions and set priorities for libraries for the next five years.

Monday, April 28, 1997  
 9:00 a.m. to 12 noon  
 Seattle Public Library Auditorium  
 1000 4th Avenue  
 Seattle, WA

Tuesday, April 29, 1997  
 9:00 a.m. to 12 noon  
 Yakima Valley Regional Library  
 102 North Third Street  
 Yakima, WA

Thursday, May 1, 1997  
 1:30 to 4:30 p.m.  
 Bellingham Public Library  
 210 Central  
 Bellingham, WA

Monday, May 5, 1997  
 1:30 to 4:30 p.m.  
 North Monroe Professional Building  
 Department of Ecology  
 1st Floor Conference Room  
 4601 North Monroe  
 Spokane, WA

Tuesday, May 6, 1997  
 1:30 to 4:30 p.m.  
 Richland Public Library  
 Conference Room  
 955 Northgate Drive  
 Richland, WA

Monday, May 12, 1997  
 1:30 to 4:30 p.m.

Olympia Timberland Library  
 West Room  
 313 8th Avenue S.E.  
 Olympia, WA

Tuesday, May 13, 1997  
 1:30 to 4:30

Ft. Vancouver Regional Library Headquarters  
 1007 East Mill Plain Boulevard  
 Vancouver, WA

For additional formation, please contact Cathy M. Stussy at (360) 753-2914, FAX (360) 586-7575 or INTERNET [cstussy@statelib.wa.gov](mailto:cstussy@statelib.wa.gov).

**WSR 97-09-050**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—April 14, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

**ASUW - Board of Control**

Meeting Dates	Location	Time
Every Thursday through academic calendar	HUB 204M	3:30 p.m.

**WSR 97-09-051**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—April 15, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

**Student Activities and Union Facilities**

**ASUW Personnel**

Meeting Dates	Location	Time
April 1	HUB 204M	3:30 p.m.
April 7 (canceled)	HUB 209B	3:30 p.m.
April 15	HUB 209B	3:30 p.m.
April 22	HUB 204M	3:30 p.m.
April 29	HUB 204M	3:30 p.m.
May 6	HUB 204M	3:30 p.m.
May 13	HUB 204M	3:30 p.m.
May 20	HUB 204M	3:30 p.m.
May 27	HUB 204M	3:30 p.m.
June 3	HUB 204M	3:30 p.m.

MISCELLANEOUS

Spring Quarter GPSS Executive

Meeting Dates	Location	Time
April 2	Room 300 HUB	5:30 p.m.
April 23	Room 300 HUB	5:30 p.m.
May 7	Room 300 HUB	5:30 p.m.
May 21	Room 300 HUB	5:30 p.m.

Spring Quarter GPSS Senate

Meeting Dates	Location	Time
April 9	HUB 200	4:30 p.m.
April 30	HUB 310	4:30 p.m.
May 14	HUB 310	4:30 p.m.

Highline Community College District 9  
 Board of Trustees  
 July 10, 1997  
 8:00 a.m. study session  
 10:00 a.m. board meeting  
 Highline Senior Center  
 1210 S.W. 136th  
 Seattle, WA 98166

**WSR 97-09-052**  
 NOTICE OF PUBLIC MEETINGS  
 COMMUNITY ECONOMIC  
 REVITALIZATION BOARD  
 [Memorandum—April 15, 1997]

CHANGE OF LOCATION

Dates Affected: May 15, 1997, July 17, 1997.  
 New Location: Salon E, Wyndham Garden Hotel,  
 18118 Pacific Highway South, Seattle.

**WSR 97-09-053**  
 NOTICE OF PUBLIC MEETINGS  
 WHATCOM COMMUNITY COLLEGE  
 [Memorandum—July 17, 1996]

The board of trustees at Whatcom Community College recently revised its annual meeting calendar due to scheduling conflicts for the board members for the month of May. The board agreed to change its regularly scheduled meeting from Tuesday, May 13, 1997, to Monday, May 12, 1997.

**WSR 97-09-055**  
 DEPARTMENT OF ECOLOGY  
 [Filed April 21, 1997, 8:20 a.m.]

The Department of Ecology is accepting comments on the revised policy and procedure for developing the list of surface waters that need additional pollution controls required under Section 303(d) of the federal Clean Water Act. Comments will be accepted until May 23, 1997. For a copy of the revisions and information on where to comment, contact Ann Kahler at (360) 407-6404.

**WSR 97-09-056**  
 NOTICE OF PUBLIC MEETINGS  
 HIGHLINE COMMUNITY COLLEGE  
 [Memorandum—April 16, 1997]

The board of trustees of Highline Community College will hold their July 10, 1997, meeting at a different location than previously scheduled.

**WSR 97-09-058**  
 NOTICE OF PUBLIC MEETINGS  
 SKAGIT VALLEY COLLEGE  
 [Memorandum—April 15, 1997]

At the February 12, 1997, board meeting, the Skagit Valley College board of trustees voted to change the location and time of the June board meeting. This meeting will be held at the South Whidbey campus in Clinton, Washington, and will begin at 7:00 p.m. Listed below is the approved schedule of board meetings for the remainder of 1997. All meetings are scheduled to begin at 5:15 p.m. and will be held in the board room at the Mount Vernon campus.

- Monday, May 12
- Monday, June 9 - South Whidbey campus - 7:00 p.m.
- Monday, July 14
- Monday, August 14 - no regular board meeting - board retreat only
- Monday, September 8
- Monday, October 13
- Wednesday, November 12
- Monday, December 8

SPECIAL MEETING  
 BOARD OF TRUSTEES

Skagit Valley College  
 2405 East College Way  
 Mount Vernon, WA 98273  
 April 16, 1997, 6:00 p.m.  
 Cascade Room

Chairperson, Debbie Aldrich, has called a special meeting of the board of trustees on **Wednesday, April 16, 1997, 6:00 p.m. in the Cascade Room** at Skagit Valley College, Mount Vernon campus. The purpose of the meeting is to discuss personnel and any other matters which may be discussed by the board of trustees during an executive session. No action will be taken at this meeting. The board of trustees will adjourn to executive session for this discussion.

Skagit Valley College will schedule meetings in locations that are free of mobility barriers, and interpreters for deaf individuals and brailled or taped information for blind individuals can be provided when adequate notice is given to the president's office at the college.

MISCELLANEOUS

**WSR 97-09-059**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—April 17, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

Student Activities and Union Facilities  
 Spring Quarter 1997  
 ASUW Finance and Budget

Meeting Dates	Location	Time
April 21	HUB 204M	3:30
April 22	HUB 204M	4:30
April 23	HUB 204M	3:30
April 25	HUB 204M	3:30
April 28	HUB 204M	3:30
May 5	HUB 204M	3:30
May 12	HUB 204M	3:30
May 19	HUB 204M	3:30
June 2	HUB 204M	3:30

**WSR 97-09-062**  
**INTERPRETIVE STATEMENT**  
**DEPARTMENT OF HEALTH**  
 [Filed April 21, 1997, 2:11 p.m.]

**NOTICE OF ADOPTION OF INTERPRETIVE STATEMENT**

**Title:** Is it considered medication assistance or medication administration when someone assists a patient in getting pills out of a blister or bubble pack?

**Issuing Entity:** Washington State Nursing Care Quality Assurance Commission.

**Subject:** The commission issued an advisory opinion in response to the request from the Department of Social and Health Services.

**Effective Date:** March 14, 1997.

**Contact Person:** Jeanne E. Vincent, RN, MS, Associate Nurse Practice Manager, Department of Health, Nursing Care Commission, P.O. Box 47864, Olympia, WA 98504-7864, (360) 664-2881.

**WSR 97-09-063**  
**DEPARTMENT OF HEALTH**  
 (Board of Pharmacy)  
 [Filed April 21, 1997, 2:13 p.m.]

**NOTICE OF INTENT TO ADOPT FEDERAL SCHEDULING ORDER—PLACEMENT OF REMIFENTANIL INTO SCHEDULE II**

The Washington State Board of Pharmacy intends to adopt the November 5, 1996, action of the Drug Enforcement Administration (DEA) to place remifentanil in Schedule II of the state Uniform Controlled Substances Act:

**WAC 246-887-140 Schedule II.** The board finds that the following substances have a high potential for abuse and

have currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions and that the abuse of the following substances may lead to severe psychic or psychological dependence. The board, therefore, places each of the following substances in Schedule II.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrophan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

- (i) Raw opium;
- (ii) Opium extracts;
- (iii) Opium fluid;
- (iv) Powdered opium;
- (v) Granulated opium;
- (vi) Tincture of opium;
- (vii) Codeine;
- (viii) Ethylmorphine;
- (ix) Etorphine hydrochloride;
- (x) Hydrocodone;
- (xi) Hydromorphone;
- (xii) Metopon;
- (xiii) Morphine;
- (xiv) Oxycodone;
- (xv) Oxymorphone; and
- (xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Methylbenzoylcocgonine (cocaine—its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy.)

(c) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:

- (1) Alfentanil;
- (2) Alphaprodine;
- (3) Anileridine;

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- (4) Bezitramide;
- (5) Bulk dextropropoxyphene (nondosage forms);
- (6) Carfentanil;
- (7) Dihydrocodeine;
- (8) Diphenoxylate;
- (9) Fentanyl;
- (10) Isomethadone;
- (11) Levo-alpha-acetylmethadol - also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM;
- (12) Levomethorphan;
- (13) Levorphanol;
- (14) Metazocine;
- (15) Methadone;
- (16) Methadone—Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
- (17) Moramide—Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- (18) Pethidine (meperidine);
- (19) Pethidine—Intermediate—A,4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine—Intermediate—B,ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine—Intermediate—C,1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Remifentanil;
- (26) Racemorphan;
- ~~(26)~~ (27) Sufentanil.

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.

RCW 69.50.201 (2)(e) allows the board to directly adopt DEA scheduling orders without the need for the issuance of a Notice of Proposed Rule under chapter 34.05 RCW. This board will use the expedited rule process allowed for under RCW 69.50.201 provided no objection is made to the board's adoption of the scheduling order.

The proposed rule will be adopted by the Board of Pharmacy on June 27, 1997, at the board's regularly scheduled meeting if no objection to the rule is received.

Written comments and/or objections to the rule may be submitted to Donald H. Williams, Executive Director, Washington State Board of Pharmacy, P.O. Box 47863, Olympia, WA 98504-7863 or FAX (360) 586-4359.

The board will accept comments up to June 1, 1997.  
 Donald H. Williams  
 Executive Director

**WSR 97-09-064**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
 [Memorandum—April 21, 1997]

**NOTICE OF MEETING**  
**FOR THE**  
**NATURAL HERITAGE ADVISORY COUNCIL**  
 1997

The Natural Heritage Advisory Council will meet on June 12, 1997, 9:30 a.m. to 5:00 p.m. at South Harbor Park Building, 601 14th Street, Anacortes, WA.

Regular council business will include consideration of natural area preserve proposals, site proposals for the registry program and NAP management activities.

For further information contact the Department of Natural Resources, Washington Natural Heritage Program, Forest Resource Division, 1111 Washington Street S.E., P.O. Box 47016, Olympia, WA 98504-7016, (360) 902-1340.

**WSR 97-09-087**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—April 21, 1997]

In accordance with RCW 42.30.075, the University of Washington is providing the following meeting schedule(s) for governing bodies of schools, colleges, departments and programs at the university that maintain regular meeting schedules at the UW Public Records Office.

**Student Activities and Union Facilities**

**Legislative Steering**

Meeting Dates	Location	Time
April 23, 1997	HUB 204M	4:30 p.m.
April 30, 1997	HUB 204M	4:30 p.m.
May 7, 1997	HUB 204M	4:30 p.m.
May 14, 1997	HUB 204M	4:30 p.m.
May 21, 1997	HUB 204M	4:30 p.m.
May 28, 1997	HUB 204M	4:30 p.m.

**Spring Quarter ASUW Judicial**

Meeting Dates	Location	Time
April 23	HUB 204M	2:30 p.m.
April 30	HUB 204M	2:30 p.m.

**WSR 97-09-088**  
**RULES COORDINATOR**  
**WASHINGTON STATE PATROL**  
 [Filed April 23, 1997, 9:16 a.m.]

In accordance with RCW 34.05.310, the rules coordinator for the Washington State Patrol is Ms. Kendra L. Hensley, Budget and Fiscal Services, Washington State Patrol, P.O. Box 42602, Olympia, WA 98504-2602.

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Ms. Hensley's phone number is (360) 753-0678 and her FAX number is (360) 664-0657.

Annette M. Sandberg  
Chief

**WSR 97-09-089**  
**NOTICE OF PUBLIC MEETINGS**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Memorandum—April 17, 1997]

**NOTICE OF CHANGE OF PUBLIC MEETING DATE**

The public meeting scheduled for Friday, November 7, 1997, has been changed to Thursday, November 6, 1997, beginning at 9:00 a.m. In all other respects the notice filed on December 9, 1996, remains in effect.

**WSR 97-09-100**  
**NOTICE OF PUBLIC MEETINGS**  
**EXECUTIVE ETHICS BOARD**

[Memorandum—April 22, 1997]

Due to extensive remodeling at our regular meeting location, we have temporarily changed meeting locations to the following:

Tuesday, May 13, 1997, 9:00 a.m. - Location

Office of Attorney General  
Highways-Licenses Building  
1125 Washington Street S.E.  
7th Floor, Room 742  
Olympia, WA 98504  
(360) 753-6200

Friday, June 13, 1997, 9:00 a.m. - Location

Attorney General Training and  
Conference Center  
4224 6th Avenue S.E.  
Building 1  
Olympia, WA 98504  
(360) 493-9500

**WSR 97-09-105**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed April 23, 1997, 11:32 a.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Medical News Bulletin 4/97 #5.  
Subject: Replacement Pages for Nondurable Medical Equipment and Supplies Billing Instructions.  
Effective Date: Immediately.

Document Description: This Medical News Bulletin supersedes numbered memorandum 97-07, issued on February 24, 1997. The limits placed on procedure codes 4521A-RR and 4521A-1P have been changed. A replacement page for the Nondurable Medical Equipment and

Medical Supplies Billing Instruction is attached reflecting this change. Also attached are replacement pages for procedure codes 0181A and 0936E which have a change to the maximum allowable amounts, effective October 1, 1996, and maximum allowable amount correction for A4322.

To receive a copy of the interpretive or policy statement, contact Anne DeJarnette, Administrative Regulations Analyst, Department of Social and Health Services, Medical Assistance Administration, Division of Client Services, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 664-2320, TDD 1-800-848-5429, FAX (360) 753-7315, e-mail dejarae@dshs.wa.gov.

April 20, 1997  
Steven Wish, Section Head  
Division of Client Services

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**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

**Suffixes:**

- C = Continuance of previous proposal
  - E = Emergency action
  - P = Proposed action
  - S = Supplemental notice
  - W = Withdrawal of proposed action
  - X = Expedited repeal
- Note: These filings will appear in a special section of Issue 97-14
- No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-08-031	AMD-P	97-08-086	16-324-620	REP-P	97-07-075	16-695-005	NEW-E	97-04-020
16-08-141	AMD-P	97-08-086	16-324-630	REP-P	97-07-075	16-695-010	NEW-E	97-04-020
16-08-171	AMD-P	97-08-086	16-324-650	REP-P	97-07-075	16-695-015	NEW-E	97-04-020
16-162	PREP	97-04-065	16-324-660	REP-P	97-07-075	16-695-020	NEW-E	97-04-020
16-218-02001	AMD	97-05-003	16-324-670	REP-P	97-07-075	16-695-025	NEW-E	97-04-020
16-230-835	AMD-P	97-02-094	16-324-680	REP-P	97-07-075	16-695-030	NEW-E	97-04-020
16-230-835	AMD-W	97-06-003	16-409-020	AMD-S	97-02-098	16-695-035	NEW-E	97-04-020
16-230-862	AMD-P	97-02-094	16-409-020	AMD	97-05-054	16-695-040	NEW-E	97-04-020
16-230-862	AMD-W	97-06-003	16-459-010	AMD-E	97-03-063	16-695-045	NEW-E	97-04-020
16-324-360	REP-P	97-07-075	16-470-100	AMD-P	97-04-089	16-695-050	NEW-E	97-04-020
16-324-361	NEW-P	97-07-075	16-470-100	AMD	97-09-098	16-695-055	NEW-E	97-04-020
16-324-370	AMD-P	97-07-075	16-473-001	NEW-P	97-04-090	16-695-060	NEW-E	97-04-020
16-324-375	AMD-P	97-07-075	16-473-001	NEW-W	97-05-058	16-695-065	NEW-E	97-04-020
16-324-380	REP-P	97-07-075	16-473-001	NEW-P	97-05-059	16-695-070	NEW-E	97-04-020
16-324-381	NEW-P	97-07-075	16-473-010	NEW-P	97-04-090	16-695-075	NEW-E	97-04-020
16-324-382	NEW-P	97-07-075	16-473-010	NEW-W	97-05-058	16-695-080	NEW-E	97-04-020
16-324-390	REP-P	97-07-075	16-473-010	NEW-P	97-05-059	16-700-010	AMD	97-04-078
16-324-391	NEW-P	97-07-075	16-473-015	NEW-P	97-04-090	16-700-021	AMD-S	97-04-077
16-324-392	NEW-P	97-07-075	16-473-015	NEW-W	97-05-058	16-700-021	AMD	97-04-078
16-324-393	NEW-P	97-07-075	16-473-015	NEW-P	97-05-059	16-700-021	AMD-C	97-09-025
16-324-394	NEW-P	97-07-075	16-473-020	NEW-P	97-04-090	16-700-040	AMD	97-04-078
16-324-395	NEW-P	97-07-075	16-473-020	NEW-W	97-05-058	16-700-050	AMD	97-04-078
16-324-396	NEW-P	97-07-075	16-473-020	NEW-P	97-05-059	16-700-060	AMD	97-04-078
16-324-397	NEW-P	97-07-075	16-473-025	NEW-P	97-04-090	16-700-080	AMD	97-04-078
16-324-398	NEW-P	97-07-075	16-473-025	NEW-W	97-05-058	16-750-003	AMD	97-06-108
16-324-400	REP-P	97-07-075	16-473-025	NEW-P	97-05-059	16-750-011	AMD	97-06-108
16-324-401	NEW-P	97-07-075	16-532	PREP	97-05-067	16-750-015	AMD	97-06-108
16-324-402	NEW-P	97-07-075	16-532-010	AMD-P	97-09-095	16-750-020	AMD	97-06-108
16-324-409	NEW-P	97-07-075	16-532-040	AMD-P	97-09-095	16-750-130	AMD	97-06-108
16-324-410	REP-P	97-07-075	16-532-110	AMD-P	97-09-095	51-11-1210	AMD	97-03-017
16-324-420	AMD-P	97-07-075	16-532-120	AMD-P	97-09-095	51-11-1301	AMD	97-03-017
16-324-430	REP-P	97-07-075	16-536-040	PREP	97-08-083	51-26	PREP	97-06-107
16-324-431	NEW-P	97-07-075	16-662	AMD-P	97-09-080	51-27	PREP	97-06-107
16-324-435	REP-P	97-07-075	16-662-070	REP-P	97-09-080	51-32	PREP	97-03-086
16-324-445	REP-P	97-07-075	16-662-071	REP-P	97-09-080	51-32-1119	NEW-W	97-09-042
16-324-446	NEW-P	97-07-075	16-662-100	NEW-P	97-09-080	51-34	PREP	97-03-086
16-324-450	REP-P	97-07-075	16-662-105	NEW-P	97-09-080	131-16	AMD-C	97-07-007
16-324-460	REP-P	97-07-075	16-662-110	NEW-P	97-09-080	131-16-010	AMD-E	97-07-006
16-324-470	REP-P	97-07-075	16-662-115	NEW-P	97-09-080	131-16-011	AMD-E	97-07-006
16-324-480	REP-P	97-07-075	16-664-010	NEW-P	97-09-102	131-16-021	AMD-E	97-07-006
16-324-490	REP-P	97-07-075	16-664-020	NEW-P	97-09-102	131-16-050	AMD-E	97-07-006
16-324-500	REP-P	97-07-075	16-664-030	NEW-P	97-09-102	131-16-060	AMD-E	97-07-006
16-324-510	REP-P	97-07-075	16-664-040	NEW-P	97-09-102	132E-111-010	PREP	97-08-080
16-324-520	REP-P	97-07-075	16-664-050	NEW-P	97-09-102	132E-133-020	PREP	97-08-081
16-324-530	REP-P	97-07-075	16-664-060	NEW-P	97-09-102	132K-04	AMD-P	97-07-018
16-324-540	REP-P	97-07-075	16-675-010	AMD-P	97-09-103	132K-04-001	AMD-P	97-07-018
16-324-600	REP-P	97-07-075	16-675-020	AMD-P	97-09-103	132K-04-010	AMD-P	97-07-018
16-324-605	REP-P	97-07-075	16-675-030	AMD-P	97-09-103	132K-04-020	AMD-P	97-07-018
16-324-610	REP-P	97-07-075	16-675-040	AMD-P	97-09-103	132K-04-030	AMD-P	97-07-018



Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132V-12-380	REP-P	97-03-128	173-303	PREP	97-04-062	180-75-091	REP	97-04-088
132V-12-380	REP	97-07-048	173-401-735	AMD-P	97-04-061	180-75-092	REP	97-04-088
132V-12-383	REP-P	97-03-128	173-401-735	AMD	97-08-084	180-75-100	REP	97-04-088
132V-12-383	REP	97-07-048	173-430-040	AMD	97-03-021	180-75-110	REP	97-04-088
132V-12-386	REP-P	97-03-128	173-490	PREP	97-09-018	180-77-003	AMD	97-04-085
132V-12-386	REP	97-07-048	173-491	PREP	97-09-018	180-77-031	AMD	97-04-085
132V-12-389	REP-P	97-03-128	173-491-020	AMD	97-04-012	180-77-041	AMD	97-04-085
132V-12-389	REP	97-07-048	173-491-040	AMD	97-04-012	180-77-120	AMD	97-04-085
132V-12-392	REP-P	97-03-128	173-491-050	AMD	97-04-012	180-77A-003	NEW	97-04-087
132V-12-392	REP	97-07-048	174-116	PREP	97-05-044	180-77A-004	NEW	97-04-087
132V-12-398	REP-P	97-03-128	174-122	PREP	97-05-044	180-77A-006	NEW	97-04-087
132V-12-398	REP	97-07-048	174-122-010	REP-P	97-09-084	180-77A-012	NEW	97-04-087
132V-12-401	REP-P	97-03-128	174-122-020	REP-P	97-09-084	180-77A-014	NEW	97-04-087
132V-12-401	REP	97-07-048	174-122-030	REP-P	97-09-084	180-77A-016	NEW	97-04-087
132V-12-404	REP-P	97-03-128	174-122-040	REP-P	97-09-084	180-77A-018	NEW	97-04-087
132V-12-404	REP	97-07-048	174-130	PREP	97-05-044	180-77A-020	NEW	97-04-087
132V-12-407	REP-P	97-03-128	174-130-010	REP-P	97-09-084	180-77A-025	NEW	97-04-087
132V-12-407	REP	97-07-048	174-130-020	REP-P	97-09-084	180-77A-026	NEW	97-04-087
132V-12-410	REP-P	97-03-128	174-133	PREP	97-05-044	180-77A-028	NEW	97-04-087
132V-12-410	REP	97-07-048	174-133-020	AMD-P	97-09-084	180-77A-029	NEW	97-04-087
132V-12-413	REP-P	97-03-128	174-140	PREP	97-05-044	180-77A-030	NEW	97-04-087
132V-12-413	REP	97-07-048	174-140-010	NEW-P	97-09-084	180-77A-033	NEW	97-04-087
132V-12-416	REP-P	97-03-128	174-140-180	REP-P	97-09-084	180-77A-037	NEW	97-04-087
132V-12-416	REP	97-07-048	174-140-190	REP-P	97-09-084	180-77A-040	NEW	97-04-087
132V-12-419	REP-P	97-03-128	174-140-200	REP-P	97-09-084	180-77A-057	NEW	97-04-087
132V-12-419	REP	97-07-048	174-140-210	REP-P	97-09-084	180-77A-165	NEW	97-04-087
132V-12-422	REP-P	97-03-128	174-140-220	REP-P	97-09-084	180-77A-170	NEW	97-04-087
132V-12-422	REP	97-07-048	174-140-230	REP-P	97-09-084	180-77A-175	NEW	97-04-087
132V-12-425	REP-P	97-03-128	174-140-240	REP-P	97-09-084	180-77A-180	NEW	97-04-087
132V-12-425	REP	97-07-048	174-276	PREP	97-05-044	180-77A-195	NEW	97-04-087
132V-12-428	REP-P	97-03-128	174-276	AMD-P	97-09-084	180-78-205	AMD	97-04-081
132V-12-428	REP	97-07-048	174-276-005	NEW-P	97-09-084	180-78-207	RECOD	97-04-081
132V-12-431	REP-P	97-03-128	174-276-010	AMD-P	97-09-084	180-78-215	AMD	97-04-081
132V-12-431	REP	97-07-048	174-276-040	AMD-P	97-09-084	180-78-217	RECOD	97-04-081
132V-12-434	REP-P	97-03-128	174-276-050	AMD-P	97-09-084	180-78-235	AMD	97-04-081
132V-12-434	REP	97-07-048	174-276-060	AMD-P	97-09-084	180-78-237	RECOD	97-04-081
136-130-060	AMD	97-06-006	174-276-080	AMD-P	97-09-084	180-78-285	AMD	97-04-081
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137-28-160	AMD	97-03-041	174-276-095	NEW-P	97-09-084	180-78A-004	NEW	97-04-084
137-28-220	AMD	97-03-041	180-16-221	AMD	97-04-083	180-78A-005	NEW	97-04-084
137-28-260	AMD	97-03-041	180-16-222	AMD	97-04-083	180-78A-006	NEW	97-04-084
137-28-350	AMD	97-03-041	180-16-223	REP	97-04-083	180-78A-007	NEW	97-04-084
137-55-010	NEW	97-03-041	180-16-224	REP	97-04-083	180-78A-010	NEW	97-04-084
137-55-020	NEW	97-03-041	180-24	PREP	97-09-032	180-78A-012	NEW	97-04-084
137-55-030	NEW	97-03-041	180-27-056	PREP	97-09-115	180-78A-015	NEW	97-04-084
137-55-040	NEW	97-03-041	180-33-025	PREP	97-09-116	180-78A-025	NEW	97-04-084
137-55-050	NEW	97-03-041	180-40-260	AMD-P	97-04-067	180-78A-026	NEW	97-04-084
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172-120-015	NEW	97-06-095	180-40-310	AMD-P	97-04-067	180-78A-030	NEW	97-04-084
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172-120-060	AMD	97-06-095	180-75-005	REP	97-04-088	180-78A-060	NEW	97-04-084
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173-22-030	AMD	97-04-076	180-75-082	REP	97-04-088	180-78A-155	NEW	97-04-084
173-22-035	NEW	97-04-076	180-75-083	DECOD	97-04-082	180-78A-160	NEW	97-04-084
173-22-040	AMD	97-04-076	180-75-085	REP	97-04-088	180-78A-165	NEW	97-04-084
173-22-070	AMD	97-04-076	180-75-087	REP	97-04-088	180-78A-195	NEW	97-04-084
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222-30-100	AMD-S	97-08-077	232-28-02203	AMD	97-06-048	242-02-533	AMD	97-04-008
230-02-020	AMD	97-03-094	232-28-02204	AMD	97-06-044	242-02-550	AMD	97-04-008
230-02-126	AMD-W	97-08-071	232-28-02205	AMD	97-06-043	242-02-554	REP	97-04-008
230-02-520	AMD-P	97-03-093	232-28-02206	AMD	97-06-041	242-02-560	AMD	97-04-008
230-02-520	AMD	97-09-073	232-28-02210	AMD	97-06-042	242-02-570	AMD	97-04-008

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242-02-634	AMD-W	97-04-009	246-828-015	NEW	97-04-042	246-839-770	REP-P	97-07-074
242-02-650	AMD	97-04-008	246-828-990	AMD	97-04-043	246-839-780	REP-P	97-07-074
242-02-660	AMD	97-04-008	246-838	PREP-W	97-03-066	246-839-800	REP-P	97-07-074
242-02-670	AMD	97-04-008	246-838	PREP-W	97-03-067	246-839-810	REP-P	97-07-074
242-02-710	AMD	97-04-008	246-838-010	REP-P	97-07-074	246-839-820	REP-P	97-07-074
242-02-820	REP	97-04-008	246-838-020	REP-P	97-07-074	246-839-830	REP-P	97-07-074
242-02-830	AMD	97-04-008	246-838-026	REP-P	97-07-074	246-839-840	REP-P	97-07-074
242-02-832	NEW	97-04-008	246-838-030	REP-P	97-07-074	246-839-850	REP-P	97-07-074
242-02-834	NEW	97-04-008	246-838-040	REP-P	97-07-074	246-839-860	REP-P	97-07-074
242-02-840	REP	97-04-008	246-838-050	REP-P	97-07-074	246-839-870	REP-P	97-07-074
242-02-850	REP	97-04-008	246-838-060	REP-P	97-07-074	246-839-880	REP-P	97-07-074
242-02-860	REP	97-04-008	246-838-070	REP-P	97-07-074	246-839-890	REP-P	97-07-074
242-02-870	REP	97-04-008	246-838-080	REP-P	97-07-074	246-839-900	REP-P	97-07-074
242-02-880	AMD	97-04-008	246-838-090	REP-P	97-07-074	246-840-010	NEW-P	97-07-074
242-02-890	AMD-W	97-04-009	246-838-100	REP-P	97-07-074	246-840-020	NEW-P	97-07-074
242-02-892	AMD	97-04-008	246-838-110	REP-P	97-07-074	246-840-030	NEW-P	97-07-074
242-04-050	AMD	97-04-008	246-838-120	REP-P	97-07-074	246-840-030	NEW-P	97-08-093
246-08-400	AMD-P	97-09-092	246-838-121	REP-P	97-07-074	246-840-030	NEW-W	97-09-061
246-10-102	AMD-P	97-08-092	246-838-130	REP-P	97-07-074	246-840-040	NEW-P	97-07-074
246-10-108	AMD-P	97-08-092	246-838-250	REP-P	97-07-074	246-840-050	NEW-P	97-07-074
246-10-109	AMD-P	97-08-092	246-838-260	REP-P	97-07-074	246-840-060	NEW-P	97-07-074
246-10-121	AMD-P	97-08-092	246-838-270	REP-P	97-07-074	246-840-070	NEW-P	97-07-074
246-10-122	AMD-P	97-08-092	246-838-280	REP-P	97-07-074	246-840-080	NEW-P	97-07-074
246-10-203	AMD-P	97-08-092	246-838-290	REP-P	97-07-074	246-840-090	NEW-P	97-07-074
246-10-205	AMD-P	97-08-092	246-838-300	REP-P	97-07-074	246-840-100	NEW-P	97-07-074
246-10-401	AMD-P	97-08-092	246-838-310	REP-P	97-07-074	246-840-105	NEW-P	97-07-074
246-10-403	AMD-P	97-08-092	246-838-330	REP-P	97-07-074	246-840-110	NEW-P	97-07-074
246-10-605	AMD-P	97-08-092	246-838-340	REP-P	97-07-074	246-840-113	NEW-P	97-07-074
246-10-608	AMD-P	97-08-092	246-838-350	REP-P	97-07-074	246-840-115	NEW-P	97-07-074
246-10-701	AMD-P	97-08-092	246-838-360	REP-P	97-07-074	246-840-120	NEW-P	97-07-074
246-10-704	AMD-P	97-08-092	246-839	PREP-W	97-03-066	246-840-130	NEW-P	97-07-074
246-10-707	AMD-P	97-08-092	246-839	PREP-W	97-03-067	246-840-300	NEW-P	97-07-074
246-11-010	AMD-P	97-08-092	246-839-010	REP-P	97-07-074	246-840-305	NEW-P	97-07-074
246-11-070	AMD-P	97-08-092	246-839-020	REP-P	97-07-074	246-840-310	NEW-P	97-07-074
246-11-080	AMD-P	97-08-092	246-839-030	REP-P	97-08-093	246-840-315	NEW-P	97-07-074
246-11-200	AMD-P	97-08-092	246-839-040	REP-P	97-07-074	246-840-320	NEW-P	97-07-074
246-11-210	AMD-P	97-08-092	246-839-050	REP-P	97-07-074	246-840-330	NEW-P	97-07-074
246-11-270	AMD-P	97-08-092	246-839-060	REP-P	97-07-074	246-840-340	NEW-P	97-07-074
246-11-290	AMD-P	97-08-092	246-839-070	REP-P	97-07-074	246-840-345	NEW-P	97-07-074
246-11-380	AMD-P	97-08-092	246-839-080	REP-P	97-07-074	246-840-350	NEW-P	97-07-074
246-11-510	AMD-P	97-08-092	246-839-090	REP-P	97-07-074	246-840-360	NEW-P	97-07-074
246-11-540	AMD-P	97-08-092	246-839-100	REP-P	97-07-074	246-840-365	NEW-P	97-07-074
246-11-550	AMD-P	97-08-092	246-839-105	REP-P	97-07-074	246-840-370	NEW-P	97-07-074
246-11-580	AMD-P	97-08-092	246-839-110	REP-P	97-07-074	246-840-400	NEW-P	97-07-074
246-11-610	AMD-P	97-08-092	246-839-115	REP-P	97-07-074	246-840-410	NEW-P	97-07-074
246-100-011	AMD-P	97-06-110	246-839-120	REP-P	97-07-074	246-840-420	NEW-P	97-07-074
246-100-036	AMD-P	97-06-110	246-839-130	REP-P	97-07-074	246-840-430	NEW-P	97-07-074
246-100-072	AMD-P	97-06-110	246-839-300	REP-P	97-07-074	246-840-440	NEW-P	97-07-074
246-100-206	AMD-P	97-06-110	246-839-305	REP-P	97-07-074	246-840-450	NEW-P	97-07-074
246-100-207	AMD	97-04-041	246-839-310	REP-P	97-07-074	246-840-540	AMD-P	97-07-074
246-100-209	AMD-P	97-06-110	246-839-315	REP-P	97-07-074	246-840-565	AMD-P	97-07-074
246-232-060	AMD-P	97-03-126	246-839-320	REP-P	97-07-074	246-840-700	NEW-P	97-07-074
246-232-060	AMD	97-08-095	246-839-330	REP-P	97-07-074	246-840-705	NEW-P	97-07-074
246-235-075	AMD-P	97-03-126	246-839-340	REP-P	97-07-074	246-840-710	NEW-P	97-07-074
246-235-075	AMD	97-08-095	246-839-345	REP-P	97-07-074	246-840-715	NEW-P	97-07-074
246-282-990	AMD-P	97-08-025	246-839-350	REP-P	97-07-074	246-840-720	NEW-P	97-07-074
246-290-990	AMD-P	97-07-073	246-839-360	REP-P	97-07-074	246-840-730	NEW-P	97-07-074
246-321-001	REP	97-03-080	246-839-365	REP-P	97-07-074	246-840-745	NEW-P	97-07-074
246-321-010	REP	97-03-080	246-839-370	REP-P	97-07-074	246-840-747	NEW-P	97-07-074
246-321-012	REP	97-03-080	246-839-400	REP-P	97-07-074	246-840-750	NEW-P	97-07-074
246-321-014	REP	97-03-080	246-839-410	REP-P	97-07-074	246-840-760	NEW-P	97-07-074
246-321-015	REP	97-03-080	246-839-420	REP-P	97-07-074	246-840-770	NEW-P	97-07-074
246-321-017	REP	97-03-080	246-839-430	REP-P	97-07-074	246-840-780	NEW-P	97-07-074
246-321-018	REP	97-03-080	246-839-440	REP-P	97-07-074	246-840-800	NEW-P	97-07-074
246-321-020	REP	97-03-080	246-839-450	REP-P	97-07-074	246-840-810	NEW-P	97-07-074
246-321-025	REP	97-03-080	246-839-700	REP-P	97-07-074	246-840-820	NEW-P	97-07-074
246-321-030	REP	97-03-080	246-839-710	REP-P	97-07-074	246-840-830	NEW-P	97-07-074
246-321-035	REP	97-03-080	246-839-720	REP-P	97-07-074	246-840-840	NEW-P	97-07-074
246-321-040	REP	97-03-080	246-839-730	REP-P	97-07-074	246-840-850	NEW-P	97-07-074
246-321-045	REP	97-03-080	246-839-740	REP-P	97-07-074	246-840-860	NEW-P	97-07-074
246-321-050	REP	97-03-080	246-839-745	REP-P	97-07-074	246-840-870	NEW-P	97-07-074
246-321-055	REP	97-03-080	246-839-750	REP-P	97-07-074	246-840-880	NEW-P	97-07-074
246-321-990	REP	97-03-080	246-839-760	REP-P	97-07-074	246-840-890	NEW-P	97-07-074

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246-840-900	NEW-P	97-07-074	260-24-130	REP-P	97-04-060	275-27-222	NEW-P	97-08-007
246-840-930	AMD-P	97-07-074	260-24-140	REP-P	97-04-060	275-27-223	AMD-E	97-03-033
246-840-940	AMD-P	97-07-074	260-24-150	REP-P	97-04-060	275-27-223	AMD-P	97-08-007
246-851-090	AMD-P	97-08-094	260-24-160	REP-P	97-04-060	275-27-400	AMD-E	97-03-033
246-851-100	AMD-P	97-08-094	260-24-170	REP-P	97-04-060	275-27-400	AMD-P	97-08-007
246-851-110	AMD-P	97-08-094	260-24-180	REP-P	97-04-060	284-04	NEW-C	97-03-023
246-851-120	AMD-P	97-08-094	260-24-190	REP-P	97-04-060	284-04	NEW-C	97-03-120
246-851-140	AMD-P	97-08-094	260-24-200	REP-P	97-04-060	284-04	NEW-C	97-08-091
246-851-150	AMD-P	97-08-094	260-24-210	REP-P	97-04-060	284-13-505	NEW	97-05-012
246-851-160	AMD-P	97-08-094	260-24-220	REP-P	97-04-060	284-13-515	NEW	97-05-012
246-851-170	AMD-P	97-08-094	260-24-230	REP-P	97-04-060	284-13-520	AMD	97-05-012
246-851-180	AMD-P	97-08-094	260-24-240	REP-P	97-04-060	284-13-530	NEW	97-05-012
246-851-190	AMD-P	97-08-094	260-24-250	REP-P	97-04-060	284-13-535	NEW	97-05-012
246-851-200	AMD-P	97-08-094	260-24-260	REP-P	97-04-060	284-13-540	AMD	97-05-012
246-851-210	REP-P	97-08-094	260-24-270	REP-P	97-04-060	284-13-550	AMD	97-05-012
246-851-220	AMD-P	97-08-094	260-24-280	REP-P	97-04-060	284-13-560	AMD	97-05-012
246-851-230	AMD-P	97-08-094	260-24-290	REP-P	97-04-060	284-13-570	AMD	97-05-012
246-851-240	AMD-P	97-08-094	260-24-300	REP-P	97-04-060	284-13-590	AMD	97-05-012
246-907-020	AMD	97-06-019	260-24-310	REP-P	97-04-060	284-13-595	NEW	97-05-012
246-907-030	AMD	97-06-019	260-24-320	REP-P	97-04-060	284-30-395	NEW-S	97-03-090
249A-02-010	NEW-W	97-09-043	260-24-330	REP-P	97-04-060	284-30-395	NEW-C	97-08-045
249A-02-020	NEW-W	97-09-043	260-24-340	REP-P	97-04-060	284-43-110	NEW-W	97-08-044
249A-02-030	NEW-W	97-09-043	260-24-350	REP-P	97-04-060	284-43-120	NEW-W	97-08-044
249A-02-040	NEW-W	97-09-043	260-24-360	REP-P	97-04-060	284-43-130	NEW-W	97-08-044
249A-02-050	NEW-W	97-09-043	260-24-370	REP-P	97-04-060	284-43-200	NEW-W	97-08-044
249A-02-060	NEW-W	97-09-043	260-24-380	REP-P	97-04-060	284-43-210	NEW-W	97-08-044
249A-02-080	NEW-W	97-09-043	260-24-390	REP-P	97-04-060	284-43-300	NEW-W	97-08-044
249A-02-100	NEW-W	97-09-043	260-24-400	REP-P	97-04-060	284-43-310	NEW-W	97-08-044
249A-02-200	NEW-W	97-09-043	260-24-410	REP-P	97-04-060	284-43-320	NEW-W	97-08-044
249A-02-210	NEW-W	97-09-043	260-24-420	REP-P	97-04-060	284-43-330	NEW-W	97-08-044
249A-02-220	NEW-W	97-09-043	260-24-430	REP-P	97-04-060	284-43-340	NEW-W	97-08-044
249A-02-250	NEW-W	97-09-043	260-24-440	REP-P	97-04-060	284-43-350	NEW-W	97-08-044
249A-02-300	NEW-W	97-09-043	260-24-450	REP-P	97-04-060	284-43-360	NEW-W	97-08-044
249A-02-350	NEW-W	97-09-043	260-24-460	REP-P	97-04-060	284-43-400	NEW-W	97-08-044
249A-02-360	NEW-W	97-09-043	260-24-465	REP-P	97-04-060	284-43-410	NEW-W	97-08-044
249A-02-410	NEW-W	97-09-043	260-24-470	REP-P	97-04-060	284-43-420	NEW-W	97-08-044
249A-02-420	NEW-W	97-09-043	260-24-480	REP-P	97-04-060	284-43-500	NEW-W	97-08-044
249A-02-430	NEW-W	97-09-043	260-24-500	NEW-P	97-04-060	284-43-510	NEW-W	97-08-044
249A-02-440	NEW-W	97-09-043	260-24-510	NEW-P	97-04-060	284-43-520	NEW-W	97-08-044
249A-02-450	NEW-W	97-09-043	260-24-520	NEW-P	97-04-060	284-43-530	NEW-W	97-08-044
249A-02-460	NEW-W	97-09-043	260-24-530	NEW-P	97-04-060	284-43-540	NEW-W	97-08-044
249A-02-470	NEW-W	97-09-043	260-24-540	NEW-P	97-04-060	284-43-550	NEW-W	97-08-044
249A-02-510	NEW-W	97-09-043	260-24-550	NEW-P	97-04-060	284-43-560	NEW-W	97-08-044
249A-02-520	NEW-W	97-09-043	260-24-560	NEW-P	97-04-060	284-43-600	NEW-W	97-08-044
249A-02-540	NEW-W	97-09-043	260-24-570	NEW-P	97-04-060	284-43-610	NEW-W	97-08-044
249A-02-560	NEW-W	97-09-043	260-24-580	NEW-P	97-04-060	284-43-620	NEW-W	97-08-044
249A-02-600	NEW-W	97-09-043	260-24-590	NEW-P	97-04-060	284-43-630	NEW-W	97-08-044
249A-02-650	NEW-W	97-09-043	260-24-600	NEW-P	97-04-060	284-43-640	NEW-W	97-08-044
249A-02-810	NEW-W	97-09-043	260-24-610	NEW-P	97-04-060	284-43-650	NEW-W	97-08-044
249A-02-830	NEW-W	97-09-043	260-24-620	NEW-P	97-04-060	284-43-700	NEW-C	97-05-006
249A-02-860	NEW-W	97-09-043	260-24-630	NEW-P	97-04-060	284-43-700	NEW-C	97-08-046
251-01-045	AMD-P	97-08-090	260-24-640	NEW-P	97-04-060	284-44-240	REP-W	97-08-044
251-01-110	AMD-P	97-08-090	260-24-650	NEW-P	97-04-060	284-44-410	REP-W	97-08-044
251-04-040	AMD-P	97-08-090	260-24-660	NEW-P	97-04-060	284-46-575	REP-W	97-08-044
251-04-050	AMD-P	97-08-090	260-24-670	NEW-P	97-04-060	284-51-050	PREP	97-04-074
251-10-030	AMD-P	97-08-090	260-24-680	NEW-P	97-04-060	286-13-040	PREP	97-08-079
251-12-270	REP-P	97-08-090	260-24-690	NEW-P	97-04-060	286-13-045	AMD-P	97-04-006
251-12-600	AMD-P	97-08-090	260-24-700	NEW-P	97-04-060	286-13-045	AMD	97-08-003
251-14-060	AMD	97-06-012	260-32	PREP	97-04-059	286-13-085	AMD-P	97-04-006
251-14-120	AMD	97-06-012	260-48	PREP	97-04-058	286-13-085	AMD	97-08-003
251-20-020	AMD-P	97-08-090	262-01-030	PREP	97-06-112	286-13-110	AMD-P	97-04-006
260-24-010	REP-P	97-04-060	262-01-030	AMD-P	97-09-091	286-13-110	AMD	97-08-003
260-24-020	REP-P	97-04-060	262-02-020	PREP	97-06-112	286-13-110	PREP	97-08-079
260-24-030	REP-P	97-04-060	262-02-020	AMD-P	97-09-090	286-13-115	PREP	97-08-079
260-24-040	REP-P	97-04-060	262-02-030	PREP	97-06-112	286-26-080	AMD-P	97-03-006
260-24-050	REP-P	97-04-060	262-02-030	AMD-P	97-09-090	286-26-080	AMD	97-08-003
260-24-060	REP-P	97-04-060	262-03	PREP	97-07-068	286-27-040	AMD-P	97-03-006
260-24-070	REP-P	97-04-060	275-27-023	AMD-E	97-03-033	286-27-040	AMD	97-08-003
260-24-080	REP-P	97-04-060	275-27-023	AMD-P	97-08-007	286-27-050	REP-P	97-03-006
260-24-090	REP-P	97-04-060	275-27-220	AMD-E	97-03-033	286-27-050	REP	97-08-003
260-24-100	REP-P	97-04-060	275-27-220	AMD-P	97-08-007	286-35-030	AMD-P	97-03-006
260-24-110	REP-P	97-04-060	275-27-221	REP-E	97-03-033	286-35-030	AMD	97-08-003
260-24-120	REP-P	97-04-060	275-27-221	REP-P	97-08-007	286-35-040	REP-P	97-03-006

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
286-35-040	REP	97-08-003	296-11-570	DECOD	97-08-042	296-23A-0195	NEW	97-06-066
286-40-020	AMD-P	97-03-006	296-11-580	DECOD	97-08-042	296-23A-0200	NEW	97-06-066
286-40-020	AMD	97-08-003	296-11-590	DECOD	97-08-042	296-23A-0210	NEW	97-06-066
292-09-010	AMD-P	97-05-022	296-17-45003	AMD	97-06-007	296-23A-0220	NEW	97-06-066
292-11-010	NEW-S	97-05-023	296-17-45003	AMD-E	97-08-043	296-23A-0230	NEW	97-06-066
292-11-020	NEW-S	97-05-023	296-17-45003	AMD-P	97-08-051	296-23A-0240	NEW	97-06-066
292-11-030	NEW-W	97-09-057	296-17-45006	NEW	97-06-007	296-23A-0250	NEW	97-06-066
292-120-010	NEW-P	97-03-133	296-17-45006	AMD-E	97-08-043	296-23A-0300	NEW	97-06-066
292-120-010	NEW	97-07-058	296-17-45006	AMD-P	97-08-051	296-23A-0310	NEW	97-06-066
292-120-020	NEW-P	97-03-133	296-17-52107	REP	97-06-007	296-23A-0350	NEW	97-06-066
292-120-020	NEW	97-07-058	296-17-52112	REP	97-06-007	296-23A-0360	NEW	97-06-066
292-120-030	NEW-P	97-03-133	296-17-52114	NEW	97-06-007	296-23A-0400	NEW	97-06-066
292-120-030	NEW	97-07-058	296-17-52114	REP-E	97-08-043	296-23A-0410	NEW	97-06-066
292-120-040	NEW-P	97-03-133	296-17-52114	REP-P	97-08-051	296-23A-0420	NEW	97-06-066
292-120-040	NEW	97-07-058	296-17-52115	NEW	97-06-007	296-23A-0430	NEW	97-06-066
296-11-001	DECOD	97-08-042	296-17-52115	REP-E	97-08-043	296-23A-0440	NEW	97-06-066
296-11-003	DECOD	97-08-042	296-17-52115	REP-P	97-08-051	296-23A-0450	NEW	97-06-066
296-11-010	DECOD	97-08-042	296-17-52116	NEW	97-06-007	296-23A-0460	NEW	97-06-066
296-11-020	DECOD	97-08-042	296-17-52117	NEW	97-06-007	296-23A-0470	NEW	97-06-066
296-11-030	DECOD	97-08-042	296-17-52117	REP-E	97-08-043	296-23A-0480	NEW	97-06-066
296-11-040	DECOD	97-08-042	296-17-52117	REP-P	97-08-051	296-23A-0490	NEW	97-06-066
296-11-050	DECOD	97-08-042	296-17-52118	NEW-E	97-08-043	296-23A-0500	NEW	97-06-066
296-11-060	DECOD	97-08-042	296-17-52118	NEW-P	97-08-051	296-23A-0520	NEW	97-06-066
296-11-070	DECOD	97-08-042	296-17-52119	NEW-E	97-08-043	296-23A-0530	NEW	97-06-066
296-11-080	DECOD	97-08-042	296-17-52119	NEW-P	97-08-051	296-23A-0540	NEW	97-06-066
296-11-090	DECOD	97-08-042	296-17-52120	NEW-E	97-08-043	296-23A-0550	NEW	97-06-066
296-11-100	DECOD	97-08-042	296-17-52120	NEW-P	97-08-051	296-23A-0560	NEW	97-06-066
296-11-110	DECOD	97-08-042	296-17-52121	NEW-E	97-08-043	296-23A-0570	NEW	97-06-066
296-11-120	DECOD	97-08-042	296-17-52121	NEW-P	97-08-051	296-23A-0575	NEW	97-06-066
296-11-130	DECOD	97-08-042	296-17-52122	NEW-E	97-08-043	296-23A-0580	NEW	97-06-066
296-11-140	DECOD	97-08-042	296-17-52122	NEW-P	97-08-051	296-23A-0600	NEW	97-06-066
296-11-150	DECOD	97-08-042	296-17-52123	NEW-E	97-08-043	296-23A-0610	NEW	97-06-066
296-11-160	DECOD	97-08-042	296-17-52123	NEW-P	97-08-051	296-23A-0620	NEW	97-06-066
296-11-170	DECOD	97-08-042	296-17-52124	NEW-E	97-08-043	296-23A-100	REP	97-06-066
296-11-180	DECOD	97-08-042	296-17-52124	NEW-P	97-08-051	296-23A-105	REP	97-06-066
296-11-190	DECOD	97-08-042	296-17-52125	NEW-E	97-08-043	296-23A-106	REP	97-06-066
296-11-200	DECOD	97-08-042	296-17-52125	NEW-P	97-08-051	296-23A-110	REP	97-06-066
296-11-210	DECOD	97-08-042	296-17-52126	NEW-E	97-08-043	296-23A-115	REP	97-06-066
296-11-220	DECOD	97-08-042	296-17-52126	NEW-P	97-08-051	296-23A-120	REP	97-06-066
296-11-230	DECOD	97-08-042	296-17-89502	NEW	97-06-007	296-23A-125	REP	97-06-066
296-11-240	DECOD	97-08-042	296-17-89502	AMD-E	97-08-043	296-23A-130	REP	97-06-066
296-11-250	DECOD	97-08-042	296-17-89502	AMD-P	97-08-051	296-23A-135	REP	97-06-066
296-11-260	DECOD	97-08-042	296-20	PREP	97-02-096	296-23A-140	REP	97-06-066
296-11-270	DECOD	97-08-042	296-20-125	PREP	97-02-097	296-23A-145	REP	97-06-066
296-11-280	DECOD	97-08-042	296-20-135	PREP	97-02-097	296-23A-150	REP	97-06-066
296-11-290	DECOD	97-08-042	296-20-135	AMD-P	97-05-076	296-23A-155	REP	97-06-066
296-11-300	DECOD	97-08-042	296-20-200	AMD	97-09-036	296-23A-160	REP	97-06-066
296-11-310	DECOD	97-08-042	296-20-210	AMD	97-09-036	296-23A-165	REP	97-06-066
296-11-320	DECOD	97-08-042	296-20-220	AMD	97-09-036	296-23A-170	REP	97-06-066
296-11-330	DECOD	97-08-042	296-23	PREP	97-02-096	296-23A-175	REP	97-06-066
296-11-340	DECOD	97-08-042	296-23-220	PREP	97-02-097	296-23A-180	REP	97-06-066
296-11-350	DECOD	97-08-042	296-23-220	AMD-P	97-05-076	296-23A-185	REP	97-06-066
296-11-360	DECOD	97-08-042	296-23-230	PREP	97-02-097	296-23A-190	REP	97-06-066
296-11-370	DECOD	97-08-042	296-23-230	AMD-P	97-05-076	296-23A-200	REP	97-06-066
296-11-380	DECOD	97-08-042	296-23-265	AMD	97-09-036	296-23A-205	REP	97-06-066
296-11-390	DECOD	97-08-042	296-23-26501	NEW	97-09-036	296-23A-210	REP	97-06-066
296-11-400	DECOD	97-08-042	296-23-26502	NEW	97-09-036	296-23A-215	REP	97-06-066
296-11-410	DECOD	97-08-042	296-23-26503	NEW	97-09-036	296-23A-220	REP	97-06-066
296-11-420	DECOD	97-08-042	296-23-26504	NEW	97-09-036	296-23A-225	REP	97-06-066
296-11-430	DECOD	97-08-042	296-23-26505	NEW	97-09-036	296-23A-230	REP	97-06-066
296-11-440	DECOD	97-08-042	296-23-26506	NEW	97-09-036	296-23A-235	REP	97-06-066
296-11-450	DECOD	97-08-042	296-23-267	NEW	97-09-036	296-23A-300	REP	97-06-066
296-11-460	DECOD	97-08-042	296-23A	PREP	97-02-097	296-23A-310	REP	97-06-066
296-11-470	DECOD	97-08-042	296-23A-0100	NEW	97-06-066	296-23A-315	REP	97-06-066
296-11-480	DECOD	97-08-042	296-23A-0110	NEW	97-06-066	296-23A-320	REP	97-06-066
296-11-490	DECOD	97-08-042	296-23A-0120	NEW	97-06-066	296-23A-400	REP	97-06-066
296-11-500	DECOD	97-08-042	296-23A-0130	NEW	97-06-066	296-23A-430	REP	97-06-066
296-11-510	DECOD	97-08-042	296-23A-0140	NEW	97-06-066	296-24-07801	AMD-P	97-03-085
296-11-520	DECOD	97-08-042	296-23A-0150	NEW	97-06-066	296-24-084	AMD-P	97-03-085
296-11-530	DECOD	97-08-042	296-23A-0160	NEW	97-06-066	296-24-088	AMD-P	97-03-085
296-11-540	DECOD	97-08-042	296-23A-0170	NEW	97-06-066	296-27-15503	AMD-P	97-03-085
296-11-550	DECOD	97-08-042	296-23A-0180	NEW	97-06-066	296-46	PREP	97-02-095
296-11-560	DECOD	97-08-042	296-23A-0190	NEW	97-06-066	296-46-090	AMD-P	97-03-083

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296-46-130	AMD-P	97-03-083	296-93-330	AMD-P	97-03-132	296-150P-0030	NEW-P	97-09-039
296-46-140	AMD-P	97-03-083	296-99-010	AMD-P	97-09-079	296-150P-0040	NEW-P	97-09-039
296-46-150	REP-P	97-03-083	296-99-015	AMD-P	97-09-079	296-150P-0060	NEW-P	97-09-039
296-46-21008	AMD-P	97-03-083	296-99-020	AMD-P	97-09-079	296-150P-0100	NEW-P	97-09-039
296-46-21052	AMD-P	97-03-083	296-99-025	AMD-P	97-09-079	296-150P-0110	NEW-P	97-09-039
296-46-225	AMD-P	97-03-083	296-99-030	AMD-P	97-09-079	296-150P-0120	NEW-P	97-09-039
296-46-23028	AMD-P	97-03-083	296-99-035	AMD-P	97-09-079	296-150P-0130	NEW-P	97-09-039
296-46-23062	AMD-P	97-03-083	296-99-040	AMD-P	97-09-079	296-150P-0200	NEW-P	97-09-039
296-46-30001	AMD-P	97-03-083	296-99-045	AMD-P	97-09-079	296-150P-0210	NEW-P	97-09-039
296-46-360	AMD-P	97-03-083	296-99-050	AMD-P	97-09-079	296-150P-0220	NEW-P	97-09-039
296-46-370	AMD-P	97-03-083	296-99-055	AMD-P	97-09-079	296-150P-0250	NEW-P	97-09-039
296-46-514	AMD-P	97-03-083	296-99-060	AMD-P	97-09-079	296-150P-0280	NEW-P	97-09-039
296-46-553	NEW-P	97-03-083	296-99-065	AMD-P	97-09-079	296-150P-0290	NEW-P	97-09-039
296-46-700	AMD-P	97-03-083	296-99-070	AMD-P	97-09-079	296-150P-0300	NEW-P	97-09-039
296-46-725	AMD-P	97-03-083	296-99-075	AMD-P	97-09-079	296-150P-0310	NEW-P	97-09-039
296-46-910	AMD-P	97-03-083	296-99-080	AMD-P	97-09-079	296-150P-0320	NEW-P	97-09-039
296-46-915	AMD-P	97-03-083	296-99-085	AMD-P	97-09-079	296-150P-0330	NEW-P	97-09-039
296-46-920	AMD-P	97-03-083	296-99-090	AMD-P	97-09-079	296-150P-0340	NEW-P	97-09-039
296-49	PREP	97-03-082	296-99-093	AMD-P	97-09-079	296-150P-0350	NEW-P	97-09-039
296-49-005	REP-P	97-09-039	296-99-095	AMD-P	97-09-079	296-150P-0400	NEW-P	97-09-039
296-49-010	REP-P	97-09-039	296-116-010	DECOD	97-08-042	296-150P-0410	NEW-P	97-09-039
296-49-015	REP-P	97-09-039	296-116-020	DECOD	97-08-042	296-150P-0420	NEW-P	97-09-039
296-49-020	REP-P	97-09-039	296-116-030	DECOD	97-08-042	296-150P-0440	NEW-P	97-09-039
296-49-025	REP-P	97-09-039	296-116-050	DECOD	97-08-042	296-150P-0450	NEW-P	97-09-039
296-49-030	REP-P	97-09-039	296-116-060	DECOD	97-08-042	296-150P-0600	NEW-P	97-09-039
296-49-035	REP-P	97-09-039	296-116-070	AMD	97-06-105	296-150P-0610	NEW-P	97-09-039
296-49-040	REP-P	97-09-039	296-116-070	DECOD	97-08-042	296-150P-0620	NEW-P	97-09-039
296-49-045	REP-P	97-09-039	296-116-075	DECOD	97-08-042	296-150P-0630	NEW-P	97-09-039
296-49-050	REP-P	97-09-039	296-116-080	DECOD	97-08-042	296-150P-0640	NEW-P	97-09-039
296-49-055	REP-P	97-09-039	296-116-081	DECOD	97-08-042	296-150P-0700	NEW-P	97-09-039
296-49-060	REP-P	97-09-039	296-116-082	PREP	97-06-102	296-150P-0710	NEW-P	97-09-039
296-49-065	REP-P	97-09-039	296-116-082	AMD-E	97-08-040	296-150P-0720	NEW-P	97-09-039
296-49A-010	NEW-P	97-09-039	296-116-082	DECOD	97-08-042	296-150P-1000	NEW-P	97-09-039
296-49A-020	NEW-P	97-09-039	296-116-083	DECOD	97-08-042	296-150P-1010	NEW-P	97-09-039
296-49A-030	NEW-P	97-09-039	296-116-085	DECOD	97-08-042	296-150P-1020	NEW-P	97-09-039
296-49A-040	NEW-P	97-09-039	296-116-110	DECOD	97-08-042	296-150P-2000	NEW-P	97-09-039
296-49A-050	NEW-P	97-09-039	296-116-115	DECOD	97-08-042	296-150P-2010	NEW-P	97-09-039
296-49A-060	NEW-P	97-09-039	296-116-120	DECOD	97-08-042	296-150P-2020	NEW-P	97-09-039
296-49A-070	NEW-P	97-09-039	296-116-140	DECOD	97-08-042	296-150P-2030	NEW-P	97-09-039
296-49A-080	NEW-P	97-09-039	296-116-150	DECOD	97-08-042	296-150P-3000	NEW-P	97-09-039
296-49A-090	NEW-P	97-09-039	296-116-170	DECOD	97-08-042	296-150R	PREP	97-03-082
296-49A-100	NEW-P	97-09-039	296-116-175	DECOD	97-08-042	296-150R	AMD-P	97-09-039
296-49A-110	NEW-P	97-09-039	296-116-185	DECOD	97-08-042	296-150R-0010	AMD-P	97-09-039
296-62	PREP	97-05-047	296-116-200	AMD	97-06-106	296-150R-0020	AMD-P	97-09-039
296-62	PREP	97-06-101	296-116-200	DECOD	97-08-042	296-150R-0030	AMD-P	97-09-039
296-62	PREP	97-09-078	296-116-205	DECOD	97-08-042	296-150R-0040	AMD-P	97-09-039
296-62-05413	AMD-P	97-03-085	296-116-2051	DECOD	97-08-042	296-150R-0060	AMD-P	97-09-039
296-62-07113	AMD-P	97-09-079	296-116-300	AMD-P	97-08-042	296-150R-0100	AMD-P	97-09-039
296-62-07460	NEW-P	97-09-079	296-116-300	DECOD	97-08-042	296-150R-0110	AMD-P	97-09-039
296-62-075	AMD-P	97-09-079	296-116-315	DECOD	97-08-042	296-150R-0120	AMD-P	97-09-039
296-62-07501	AMD-P	97-09-079	296-116-35001	DECOD	97-08-042	296-150R-0130	AMD-P	97-09-039
296-62-07510	AMD-P	97-09-079	296-116-360	AMD-P	97-06-103	296-150R-0200	AMD-P	97-09-039
296-62-07515	AMD-P	97-09-079	296-116-360	AMD-E	97-06-104	296-150R-0250	AMD-P	97-09-039
296-62-07711	AMD-P	97-09-079	296-116-360	DECOD	97-08-042	296-150R-0280	AMD-P	97-09-039
296-62-07712	AMD-P	97-09-079	296-116-370	DECOD	97-08-042	296-150R-0400	AMD-P	97-09-039
296-62-07715	AMD-P	97-09-079	296-116-400	DECOD	97-08-042	296-150R-0640	AMD-P	97-09-039
296-62-07717	AMD-P	97-09-079	296-116-410	DECOD	97-08-042	296-150R-0850	AMD-P	97-09-039
296-62-07721	AMD-P	97-09-079	296-116-420	DECOD	97-08-042	296-150R-1000	AMD-P	97-09-039
296-62-07725	AMD-P	97-09-079	296-116-500	DECOD	97-08-042	296-150R-2000	AMD-P	97-09-039
296-62-07728	AMD-P	97-09-079	296-128-013	NEW-W	97-03-073	296-150R-2020	AMD-P	97-09-039
296-62-07761	REP-P	97-09-079	296-150C-0040	AMD-P	97-09-039	296-150R-3000	AMD-P	97-03-132
296-65-001	AMD-P	97-09-079	296-150C-0090	NEW-W	97-04-070	296-150R-3000	AMD-P	97-09-039
296-65-030	AMD-P	97-09-079	296-150C-0100	AMD-P	97-09-039	296-155-527	AMD-P	97-03-085
296-86-020	AMD-P	97-03-132	296-150C-1010	NEW-W	97-04-070	296-200	PREP	97-03-081
296-86-030	AMD-P	97-03-132	296-150C-3000	AMD-P	97-03-132	296-200-025	AMD-P	97-03-132
296-86-050	AMD-P	97-03-132	296-150F-0040	AMD-P	97-09-039	296-200-050	AMD-P	97-03-132
296-86-060	AMD-P	97-03-132	296-150F-0100	AMD-P	97-09-039	296-200-900	AMD-P	97-03-132
296-86-070	AMD-P	97-03-132	296-150F-3000	AMD-P	97-03-132	296-306-060	REP-P	97-03-131
296-86-075	AMD-P	97-03-132	296-150M-0040	AMD-P	97-09-039	296-306-060	REP-E	97-06-040
296-86-080	AMD-P	97-03-132	296-150M-0100	AMD-P	97-09-039	296-306-060	REP	97-08-051A
296-86-090	NEW-P	97-03-132	296-150M-3000	AMD-P	97-03-132	296-306-330	REP-P	97-03-131
296-93-300	AMD-P	97-03-132	296-150P-0010	NEW-P	97-09-039	296-306-330	REP-E	97-06-040
296-93-320	REP-P	97-03-132	296-150P-0020	NEW-P	97-09-039	296-306-330	REP	97-08-051A

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308-12-220	NEW	97-03-121	308-56A-470	AMD	97-07-014	308-330-305	AMD-P	97-07-015
308-12-230	NEW	97-03-121	308-56A-610	AMD-P	97-06-028	308-330-307	AMD-P	97-07-015
308-12-240	NEW-W	97-03-065	308-56A-610	AMD-S	97-09-038	308-330-316	AMD-P	97-07-015
308-12-240	NEW	97-03-121	308-56A-620	AMD-P	97-06-028	308-330-322	AMD-P	97-07-015
308-12-250	NEW-W	97-03-065	308-56A-620	AMD-S	97-09-038	308-330-329	REP-P	97-07-015
308-12-260	NEW-W	97-03-065	308-56A-630	REP-P	97-06-028	308-330-370	AMD-P	97-07-015
308-12-320	AMD	97-06-064	308-56A-630	REP-S	97-09-038	308-330-375	REP-P	97-07-015
308-12-324	AMD	97-03-121	308-56A-640	AMD-P	97-06-028	308-330-400	AMD-P	97-07-015
308-12-326	AMD	97-06-064	308-56A-640	AMD-S	97-09-038	308-330-406	AMD-P	97-07-015
308-13-045	NEW-P	97-03-022	308-56A-650	AMD-P	97-06-028	308-330-408	AMD-P	97-07-015
308-13-045	NEW	97-06-065	308-56A-650	AMD-S	97-09-038	308-330-415	AMD-P	97-07-015
308-13-160	AMD-P	97-03-022	308-56A-660	AMD-P	97-06-028	308-330-421	AMD-P	97-07-015
308-13-160	AMD	97-06-065	308-56A-660	AMD-S	97-09-038	308-330-425	AMD-P	97-07-015
308-14-210	NEW-P	97-07-031	308-56A-670	AMD-P	97-06-028	308-330-436	AMD-P	97-07-015
308-14-220	NEW-P	97-07-031	308-56A-670	AMD-S	97-09-038	308-330-462	AMD-P	97-07-015
308-14-230	NEW-P	97-07-031	308-56A-680	AMD-P	97-06-028	308-330-800	AMD-P	97-07-015
308-19-400	NEW-P	97-07-026	308-56A-680	AMD-S	97-09-038	308-330-825	AMD-P	97-07-015
308-19-410	NEW-P	97-07-026	308-56A-690	AMD-P	97-06-028	308-420-250	NEW-P	97-07-034
308-19-420	NEW-P	97-07-026	308-56A-690	AMD-S	97-09-038	308-420-260	NEW-P	97-07-034
308-20-710	NEW-P	97-07-032	308-57-005	AMD-P	97-07-069	308-420-270	NEW-P	97-07-034
308-20-720	NEW-P	97-07-032	308-57-010	AMD-P	97-07-069	315-10-010	AMD	97-04-047
308-20-730	NEW-P	97-07-032	308-57-020	AMD-P	97-07-069	315-10-020	AMD	97-04-047
308-29-090	NEW-P	97-07-033	308-57-030	AMD-P	97-07-069	315-10-022	NEW	97-04-047
308-29-090	NEW-W	97-09-022	308-57-110	AMD-P	97-07-069	315-10-025	NEW	97-04-047
308-29-100	NEW-P	97-07-033	308-57-120	AMD-P	97-07-069	315-10-030	AMD	97-04-047
308-29-100	NEW-W	97-09-022	308-57-130	AMD-P	97-07-069	315-10-035	NEW	97-04-047
308-29-110	NEW-P	97-07-033	308-57-135	NEW-P	97-07-069	315-10-055	NEW	97-04-047
308-29-110	NEW-W	97-09-022	308-57-140	AMD-P	97-07-069	315-10-060	AMD	97-04-047
308-30-170	NEW-P	97-07-029	308-57-210	AMD-P	97-07-069	315-10-062	NEW	97-04-047
308-30-180	NEW-P	97-07-029	308-57-220	REP-P	97-07-069	315-10-065	NEW	97-04-047
308-30-190	NEW-P	97-07-029	308-57-230	AMD-P	97-07-069	315-10-070	AMD	97-04-047
308-32-100	NEW-P	97-07-027	308-57-240	AMD-P	97-07-069	315-10-075	NEW	97-04-047
308-32-110	NEW-P	97-07-027	308-57-250	REP-P	97-07-069	315-11A-184	AMD-P	97-03-123
308-32-120	NEW-P	97-07-027	308-57-310	REP-P	97-07-069	315-11A-184	AMD	97-07-063
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308-33-120	NEW-P	97-07-030	308-57-410	REP-P	97-07-069	315-11A-187	NEW	97-07-063
308-33-130	NEW-P	97-07-030	308-57-420	REP-P	97-07-069	315-11A-188	NEW-P	97-03-123
308-56A-060	AMD-P	97-09-002	308-57-430	REP-P	97-07-069	315-11A-188	NEW	97-07-063
308-56A-065	AMD	97-03-076	308-57-440	REP-P	97-07-069	315-11A-189	NEW-P	97-03-123
308-56A-070	AMD	97-03-076	308-58-010	AMD-P	97-03-096	315-11A-189	NEW	97-07-063
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308-56A-160	AMD	97-07-014	308-58-030	AMD-S	97-08-005	315-11A-191	NEW-P	97-03-123
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308-56A-285	AMD-P	97-09-002	308-96A-057	AMD	97-07-013	315-12-090	AMD-P	97-03-123
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308-56A-350	AMD-P	97-09-002	308-125-120	PREP	97-09-083	317-50-060	NEW-P	97-07-064
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363-11-140	RECOD	97-08-042	363-116-370	RECOD	97-08-042	388-14-500	NEW-P	97-09-020
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363-11-170	RECOD	97-08-042	363-116-420	RECOD	97-08-042	388-46-110	AMD-P	97-05-070
363-11-180	RECOD	97-08-042	363-116-500	RECOD	97-08-042	388-46-120	NEW-P	97-05-070
363-11-190	RECOD	97-08-042	365-135-010	AMD	97-02-093	388-49-020	AMD	97-06-096
363-11-200	RECOD	97-08-042	365-135-020	AMD	97-02-093	388-49-160	AMD-P	97-06-098
363-11-210	RECOD	97-08-042	365-135-035	NEW	97-02-093	388-49-160	AMD	97-09-030
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363-11-230	RECOD	97-08-042	365-135-050	AMD	97-02-093	388-49-190	AMD	97-09-031
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363-11-280	RECOD	97-08-042	374-70-020	AMD-E	97-07-049	388-49-360	AMD-P	97-05-053
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363-11-310	RECOD	97-08-042	374-70-030	AMD-E	97-07-049	388-49-362	NEW-P	97-05-053
363-11-320	RECOD	97-08-042	374-70-060	AMD-P	97-03-113	388-49-362	NEW	97-09-012
363-11-330	RECOD	97-08-042	374-70-060	AMD	97-06-080	388-49-364	NEW-E	97-05-052
363-11-340	RECOD	97-08-042	374-70-060	AMD-E	97-07-049	388-49-364	NEW-P	97-05-053
363-11-350	RECOD	97-08-042	374-70-070	AMD-P	97-03-113	388-49-364	NEW	97-09-012
363-11-360	RECOD	97-08-042	374-70-070	AMD	97-06-080	388-49-366	NEW-E	97-05-052
363-11-370	RECOD	97-08-042	374-70-070	AMD-E	97-07-049	388-49-366	NEW-P	97-05-053
363-11-380	RECOD	97-08-042	374-70-080	AMD-P	97-03-113	388-49-366	NEW	97-09-012
363-11-390	RECOD	97-08-042	374-70-080	AMD	97-06-080	388-49-368	NEW-E	97-05-052
363-11-400	RECOD	97-08-042	374-70-080	AMD-E	97-07-049	388-49-368	NEW-P	97-05-053
363-11-410	RECOD	97-08-042	374-70-090	AMD-P	97-03-113	388-49-368	NEW	97-09-012
363-11-420	RECOD	97-08-042	374-70-090	AMD	97-06-080	388-49-369	NEW-E	97-05-052
363-11-430	RECOD	97-08-042	374-70-090	AMD-E	97-07-049	388-49-369	NEW-P	97-05-053
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363-11-450	RECOD	97-08-042	374-70-100	AMD	97-06-080	388-49-380	AMD-E	97-05-052
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363-11-470	RECOD	97-08-042	374-70-110	REP-P	97-03-113	388-49-380	AMD	97-09-012
363-11-480	RECOD	97-08-042	374-70-110	REP	97-06-080	388-49-385	NEW-E	97-05-052
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388-215-1550	NEW-P	97-03-052	415-112-444	NEW	97-03-016	446-20-530	AMD	97-05-048
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