

Washington State Register

July 16, 2003

OLYMPIA, WASHINGTON

ISSUE 03-14



IN THIS ISSUE

Aging and Disability Services Administration	Health Care Authority
Agriculture, Department of	Health, Department of
Basic Health	Hearing and Speech, Board of
Bellevue Community College	Insurance Commissioner, Office of the
Central Washington University	Labor and Industries, Department of
Children's Administration	Licensing, Department of
Columbia River Gorge Commission	Medical Assistance Administration
Community and Technical Colleges, State Board for	Natural Resources, Department of
Convention and Trade Center	Pilotage Commissioners, Board of
Deaf, Washington State School for the	Public Employees Benefits Board
Eastern Washington University	Public Instruction, Superintendent of
Ecology, Department of	Revenue, Department of
Economic Services Administration	Skagit Valley College
Education, State Board of	Social and Health Services, Department of
Employment Security Department	Spokane, Community Colleges of
Everett Community College	Transportation, Department of
Fish and Wildlife, Department of	Utilities and Transportation Commission
Health and Rehabilitative Services Administration	Western Washington University

CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of July 2003 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

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

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John G. Schultz
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (d) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (g) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

- (a) In amendatory sections—
 - (i) underlined material is new material;
 - (ii) ~~deleted material is ((~~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].

2002-2003

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

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

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

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

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

⁴ A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 and 1.12.040.

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.

WSR 03-14-021**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed June 20, 2003, 10:44 a.m.]

Subject of Possible Rule Making: Chapter 308-96A WAC, Vehicle licenses, to include but not limited to WAC 308-96A-026, 308-96A-099, and 308-96A-136.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.01.110, 46.16.135, 46.16.225, 46.16.490, 46.16.276, 46.16.060, 43.17.060, 46.16.600.

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

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting by mail Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicles Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957, or by phone (360) 902-3718, fax (360) 664-0831; TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

June 20, 2003

D. McCurley, Administrator
Title and Registration Services

WSR 03-14-022**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed June 20, 2003, 10:45 a.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc., to include but not limited to WAC 308-56A-150, 308-56A-160, 308-56A-210, 308-56A-455, and 308-56A-460.

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

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

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting by mail Katherine Iyall Vasquez, Rules Manager, Title and Registration Services, Vehicle Services, Mailstop 48001, P.O. Box 2957, Olympia, WA 98507-2957,

or by phone (360) 902-3718, fax (360) 664-0831, TTY (360) 664-8885, e-mail kvasquez@dol.wa.gov.

June 20, 2003

D. McCurley, Administrator
Title and Registration Services

WSR 03-14-023**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 03-05—Filed June 20, 2003, 10:48 a.m.]

Subject of Possible Rule Making: This rule making will amend chapter 173-503 WAC, Skagit River instream flow rule. As a result of an interim memorandum of agreement recently signed by the Department of Ecology, City of Anacortes, PUD No. 1 of Skagit County, Skagit County, the Sauk-Suiattle Indian Tribe, the Upper Skagit Indian Tribe and the Swinomish Indian Tribal Community, ecology has agreed to initiate and conduct, and the other parties agree to support, rule making to amend chapter 173-503 WAC solely for the purpose of allowing exempt wells to be used in portions of the Lower Skagit Basin and all of the Upper Skagit Basin when mitigation is provided under an ecology approved mitigation plan.

This CR-101 expands the geographic area (i.e. portions of the Lower Skagit Basin) that may be covered under the proposed rule making. A previous CR-101 for ecology, Order 03-05 was published as WSR 03-10-011.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 90.54 RCW, Water Resources Act of 1971; chapter 90.22 RCW, Minimum water flows and levels; chapter 173-500 WAC, Water resources management program; and chapter 173-503 WAC, Instream resources protection program—Lower and Upper Skagit water resources inventory area (WRIA 3 and 4).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 90.44.050 authorizes withdrawal of public ground waters of the state in an amount not to exceed 5,000 gallons per day for certain purposes without obtaining a permit from the Department of Ecology to appropriate such waters. These withdrawals to the extent regularly used beneficially are entitled to a right equal to that established by a permit issued under the provisions of chapter 90.44 RCW. Minimum instream flows established in chapter 173-503 WAC create a water right with a priority date as of the date the rule was established (April 14, 2001). Those flows are senior to any new exempt withdrawals begun after the rule. A rule amendment is necessary to create a new administrative framework to allow new exempt withdrawals that are mitigated to be used without interruption from the senior instream flow right.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Ecology has exclusive statutory authority under chapter 90.22 RCW to establish minimum instream water flows. Consultation will occur with the Washington Department of Fish and Wildlife.

Process for Developing New Rule: Interested parties from the Skagit River Basin and ecology have signed an interim memorandum of agreement. During rule making, draft language will be reviewed by local interested parties, primarily signature governments to the interim memorandum of agreement before the filing of the CR-102. A press release and focus sheet will be written and distributed to mailing lists and e-mail lists. A public hearing will be held to solicit comments from other interested parties.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dan Swenson, Department of Ecology, Northwest Regional Office, 3190 160th Avenue S.E., Bellevue, WA 98008-5452, (425) 649-7270, dswe461@ecy.wa.gov, fax (425) 649-7098.

June 20, 2003
Joe Stohr
Water Resources
Program Manager

WSR 03-14-024

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed June 20, 2003, 11:22 a.m.]

Subject of Possible Rule Making: Amending chapter 196-27A WAC.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: An amendment to this rule is necessary as part of the reorganization of many of the board rules and would add a new section to this rule regarding the practice of land surveying.

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 Joe Vincent, Jr., P.O. Box 9025, Olympia, WA 98507-9025, phone (360) 664-1567, fax (360) 664-1575, e-mail engineers@dol.wa.gov. Comments may be submitted through regular mail, phone, fax or e-mail. Draft language of rule amendments will be distributed to the board's list of interested persons.

June 20, 2003
George A. Twiss
Executive Director
Board of Registration for
Professional Engineers and Land Surveyors

WSR 03-14-027

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION**

[Filed June 20, 2003, 11:57 a.m.]

Subject of Possible Rule Making: WAC 468-38-110 Escort vehicle requirements, is being proposed for change to clarify existing procedures. Clarification has been deemed necessary by the Pilot Escort Oversight Committee (PEOC) in order to provide a more sound basis for training in the pilot/escort vehicle operator training program.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current WAC has certain ambiguities that have resulted in varying interpretations by instructors of pilot/escort vehicle operator training. The PEOC has undertaken the review of the rule in order to remove the ambiguities.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Patrol (WSP) and the WSDOT, along with industry, are represented on the PEOC, and will be a part [of] developing and coordinating the clarifying revisions.

Process for Developing New Rule: Developed in a committee of regulatory and industry representatives.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barry Diseth, Motor Carrier Services, Washington State Department of Transportation, P.O. Box 47367, Olympia, WA 98504-7367, e-mail disethb@wsdot.wa.gov, phone (360) 704-6340, fax (360) 704-6350.

June 17, 2003
John F. Conrad
Assistant Secretary
Engineering and Regional Operations

WSR 03-14-032

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH**

[Filed June 23, 2003, 2:20 p.m.]

Subject of Possible Rule Making: WAC 246-926-020 General provisions, 246-926-140 Approved schools, 246-926-180 Parenteral procedures, 246-926-190 State examination/examination waiver/examination application deadline, and 246-926-990 Certification and registration fees and renewal cycle.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.84.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules need to be updated to reflect the changes/advances in technology. Updating the rules may help ensure that certified radiologic technologists stay in compliance with the statute while ensuring that the public receives a higher standard of care.

Process for Developing New Rule: Collaborative rule making, public meetings and mailings to interested persons.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Holly Rawnsley, Program Manager, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4941, fax (360) 236-2406, e-mail Holly.Rawnsley@doh.wa.gov. Interested persons can participate through meetings and by submitting written comments.

June 23, 2003
Mary C. Selecky
Secretary

WSR 03-14-039

PREPROPOSAL STATEMENT OF INQUIRY SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed June 23, 2003, 4:41 p.m.]

Subject of Possible Rule Making: WAC 392-140-970 through 392-140-974, Finance—Special allocations—Salary bonus for teachers who attain certification by the National Board for Professional Teaching Standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290(1).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rule changes are needed to implement provisions in the 2003-05 state biennial operating budget.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, TTY (360) 664-3631. For telephone assistance contact Ross Bunda, (360) 725-6308.

June 23, 2003
Dr. Terry Bergeson
Superintendent of
Public Instruction

WSR 03-14-041

PREPROPOSAL STATEMENT OF INQUIRY WESTERN WASHINGTON UNIVERSITY

[Filed June 24, 2003, 9:47 a.m.]

Subject of Possible Rule Making: Chapter 516-60 WAC, Admission and registration procedures.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.35.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: (1) A recent court decision

has prompted the university to establish regulations on waivers of tuition and fees.

(2) General housekeeping measures.

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

Process for Developing New Rule: Agency study; and public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Suzanne Baker, Rules Coordinator, Western Washington University, 516 High Street, Old Main 335, Bellingham, WA 98225-9015, phone (360) 650-3117, fax (360) 650-6197.

June 23, 2003
Suzanne Baker
Rules Coordinator

WSR 03-14-047

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING

[Filed June 24, 2003, 2:45 p.m.]

Subject of Possible Rule Making: Fee adjustment to WAC 308-129-110, regulating sellers of travel.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.138.170, 43.24.023, and 43.24.086.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Fee structure review.

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 Randy Renfrow, Business and Profession Division, Sellers of Travel Section, P.O. Box 9026, Olympia, WA 98507-9026, phone (360) 664-6634, fax (360) 570-4956, e-mail plssunit@dol.wa.gov. Additional information will be posted on the sellers of travel Internet website at www.dol.wa.gov/plss/sofront.htm.

June 24, 2003
Randy Renfrow
Program Licensing Manager

WSR 03-14-057

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

(Health and Rehabilitative Services Administration)

[Filed June 25, 2003, 4:23 p.m.]

The Health and Rehabilitative Services Administration, Division of Vocational Rehabilitation would like to withdraw

preproposal statement of inquiry filed as WSR 02-19-023, filed on September 2, 2002.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

sion, P.O. Box 45320, Olympia, WA 98504-5320, phone (360) 902-0778, fax (360) 902-0809.

June 25, 2003
Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-14-058
WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed June 25, 2003, 4:24 p.m.]

The Medical Assistance Administration would like to withdraw the CR-101, preproposal statement of inquiry, filed as WSR 02-01-101 on December 17, 2001.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-14-068
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE
[Filed June 26, 2003, 11:36 a.m.]

Subject of Possible Rule Making: Recreational and commercial shellfish rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes in crab reporting rules, as well as better understanding of crab molting cycles, has reduced the need to enforce soft shell crab as a criminal violation.

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 Lew Atkins, Fish Program, Assistant Director, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2651. Contact by August 14. Expected proposal filing August 15.

June 26, 2003
Evan Jacoby
Rules Coordinator

WSR 03-14-059
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Health and Rehabilitative Services Administration)
[Filed June 25, 2003, 4:25 p.m.]

Subject of Possible Rule Making: Psychiatric indigent inpatient program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 71.05.560, 71.24.035, and 71.34.800.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To establish eligibility standards for persons who need emergent psychiatric inpatient care and have no financial resources.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The DSHS Medical Assistance Administration regulates other eligibility standards that are similar to this process. DSHS-Economic Services Administration will determine the person eligibility based on criteria established by this rule.

Process for Developing New Rule: The division is working with the Medical Assistance Administration (MAA) and Economic Services Administration (ESA) on the establishment of this new eligible standard. The division coordinates with Economic Services Administration and Medical Assistant Administration on implementing the new standard and payment issues. The notice was sent to external stakeholders including community hospitals and regional support networks. There were several meetings with the internal stakeholders to discuss the new criteria and ensure the smooth implementation of the new program. A memo was sent out to the community hospitals and posted on the MAA website to inform them of the new program.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Debbie Kingery, Mental Health Divi-

WSR 03-14-077
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed June 27, 2003, 2:04 p.m.]

Subject of Possible Rule Making: WAC 388-416-0015, 388-418-0005, 388-418-0025, and 388-434-0005.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.530, and the 2003 state supplemental budget included a provision to eliminate continuous eligibility for children and implement six month reviews for family and children's medical programs.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To initiate six month eligibility reviews for DSHS/MAA clients of family and children's medical programs; and to eliminate continuous eligibility for children.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary Wood, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1329, e-mail woodme@dshs.wa.gov, fax (360) 664-0910, TDD 1-800-848-5429.

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-14-078

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

[Filed June 27, 2003, 2:04 p.m.]

Subject of Possible Rule Making: WAC 388-530-1850 Drug utilization and education (DUE) council.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.057, and 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The DUE council is being renamed the Pharmacy and Therapeutics Committee. The Pharmacy and Therapeutics Committee will serve the consolidated prescription drug project of Health Care Authority, MAA, and Department of Labor and Industries; and serve as MAA's drug utilization review board.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Health, Washington State Board of Pharmacy.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Myra Davis, Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1306, e-mail daviss@dshs.wa.gov, fax (360) 586-9727, TDD 1-800-848-5429.

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-14-079

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

[Filed June 27, 2003, 2:05 p.m.]

Subject of Possible Rule Making: Premiums—Children's medical, chapter 388-505 WAC and/or other related rules as appropriate.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090 and 74.09.055, chapter 14, Laws of 2003.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The proposed language is required to implement the premium requirement for optional children as allowed by HB 2285 (chapter 14, Laws of 2003).

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This amendment will comply with federal requirements under a proposed waiver.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below. The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of the final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1330, e-mail scotsjk@dshs.wa.gov, fax (360) 586-0910, TDD 1-800-848-5429.

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-14-080

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**
(Economic Services Administration)

[Filed June 27, 2003, 2:05 p.m.]

Subject of Possible Rule Making: The department's Division of Employment and Assistance Programs will amend all necessary sections of WAC 388-468-0005 Residency, to prohibit the receipt of benefits from Washington state while receiving comparable benefits from another state.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.04.500, 74.04.510, and 74.08.-090; 7 C.F.R., Chapter II, Part 273.3.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department must adopt rules to be consistent with federal regulations for the receipt of benefits.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture, Food and Nutrition Service (FNS) publishes federal regulations for the food stamp program in the Federal Register. Rules published in the Federal Register are incorporated into the United States Code of Federal Regulations. FNS also issues administrative notices to inform states of new program requirements that are not yet in the United States Code of Federal Regulations. DSHS incorporates these regulations and exercises state options by adopting administrative rules for food assistance benefits in Washington state.

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ken Adney, Division of Employment and Assistance Programs, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-4570, phone (360) 413-3264, fax (360) 413-3493, e-mail adneykp@dshs.wa.gov.

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-14-095

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed June 30, 2003, 3:05 p.m.]

Subject of Possible Rule Making: Vessel dealer registration application form, WAC 308-90-040.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 88.02.060 requires eligibility for a vehicle dealer license to be determined by the department's rules. The submission of a criminal history with the vessel dealer license application will serve to solidify the integrity of the industry and the license application process.

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

Process for Developing New Rule: Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Gail Saul, Department of Licensing, Dealer and Manufacturer Services, P.O. Box 9039, Olympia, WA 98507, phone (360) 664-6460, fax (360) 586-6703, e-mail gsaul@dol.wa.gov.

June 24, 2003

Mykel D. Gable
Administrator

WSR 03-14-096

**PREPROPOSAL STATEMENT OF INQUIRY
HEALTH CARE AUTHORITY**

[Order 3-02—Filed June 30, 2003, 3:28 p.m.]

Subject of Possible Rule Making: Rules effectuating prescription drug projects as provided for in chapter 41.05 RCW including, but not limited to programs established by the 2003 legislature at SB 6088 (chapter 29, Laws of 2003). These may include an evidence-based prescription drug program, negotiation of discounts from pharmaceutical manufacturers, practitioner endorsement and use of a prescription drug preferential list, establishment and governance of an independent pharmacy and therapeutics committee to evaluate the effectiveness of prescription drugs, as well as a clearing house for information on prescription drug discount plans and a senior discount program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.05.160.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These rules will govern development of prescription drug programs established pursuant to chapter 41.05 RCW and are necessary to implement SB 6088 (chapter 29, Laws of 2003) as passed by the 2003 legislature. It is anticipated that a new chapter 182-50 WAC will be set aside for regulation of these projects.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: RCW 41.05.011(2), as amended by SB 6088 (chapter 29, Laws of 2003), defines "state purchased health care" to include purchases made by several Washington state agencies including the Departments of Social and Health Services, Health, Labor and Industries, Corrections, Veterans Affairs, local school districts as well as the basic health and public employee programs administered by the Health Care Authority.

Process for Developing New Rule: These rules will be adopted after discussions with affected agencies and the public.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Duane Thurman, Health Care Authority, 1511 Third Avenue, Suite 201, Mailstop TB-51, Seattle, WA 98101-3662, phone (360) 521-2036, fax (360) 521-2001.

June 30, 2003

Melodie Bankers
Rules Coordinator

WSR 03-14-098**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed June 30, 2003, 3:39 p.m.]

The Aging and Disability Services Administration would like to withdraw preproposal statement of inquiry, filed as WSR 03-11-088 on May 21, 2003. This CR-101 relates to WAC 388-71-0194.

Brian Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-14-099**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed June 30, 2003, 3:40 p.m.]

Subject of Possible Rule Making: Amending WAC 388-71-0194, 388-71-0415, 388-71-0440, and 388-72A-0060; and repealing WAC 388-71-0405. These amendments are intended to comply with legislative and budget requirements as described in ESSB 5404 and HB 1753 and as appropriated in the 2003-05 operating budget.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.04.050, 74.04.057, 74.04.200, 74.09.520, 74.39.020, and 74.39A.090; ESSB 5404; HB 1753 (chapter 140, Laws of 2003).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: These amendments are intended to comply with legislative and budget requirements as described in ESSB 5404 and HB 1753 and as appropriated in the 2003-05 operating budget;

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Federal Centers for Medicaid and Medicare Services (CMS).

Process for Developing New Rule: The department welcomes public participation in the development of DSHS rules. Anyone interested should contact the person listed below. At a later date, DSHS will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kristi Knudsen, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2537, fax (360) 438-8633, knudskl@dshs.wa.gov.

June 30, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

WSR 03-14-123**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES**

[Filed July 1, 2003, 8:40 a.m.]

Subject of Possible Rule Making: Title 131 WAC, governing Washington's community and technical college system.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28B.50 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Policy might need to be developed in the area of tuition and fees and excess credits taken at institutions of higher education as a result of the 2003 legislative session.

Process for Developing New Rule: Normal rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting DelRae Oderman, Executive Assistant and Agency Rules Coordinator, State Board for Community and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495.

July 1, 2003

DelRae Oderman

Executive Assistant

Agency Rules Coordinator

WSR 03-14-124**PREPROPOSAL STATEMENT OF INQUIRY
STATE BOARD FOR
COMMUNITY AND TECHNICAL COLLEGES**

[Filed July 1, 2003, 8:42 a.m.]

Subject of Possible Rule Making: Title 131 WAC, governing Washington's community and technical college system.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 28B.50 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 1. RCW 28B.50.090 charges the State Board for Community and Technical Colleges with the responsibility to establish minimum standards for instructional personnel.

2. To align certification requirements for professional-technical faculty with their published skill standards.

Process for Developing New Rule: Normal rule-making process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting DelRae Oderman, Executive Assistant and Agency Rules Coordinator, State Board for Community

and Technical Colleges, P.O. Box 42495, Olympia, WA 98504-2495.

July 1, 2003
DelRae Oderman
Executive Assistant
Agency Rules Coordinator

Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail mtoohey@agr.wa.gov; and Tom Wessels, Plant Services Program Manager, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094, e-mail twessels@agr.wa.gov.

July 2, 2003
Mary A. Martin Toohey
Assistant Director

WSR 03-14-135

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed July 2, 2003, 8:22 a.m.]

Subject of Possible Rule Making: Most Department of Agriculture programs operate on a "fee for service" basis. During the 2003 legislative session, the Washington state legislature passed legislation, chapter 25, Laws of 2003 (ESSB 5404), which was signed by Governor Locke on June 26, 2003, authorizing the department to sufficiently increase department fees to ensure that department programs will be able to cover the full cost of providing program services. As a result, the department, with the support of the Washington state fruit tree nursery industry, plans to amend chapter 16-401 WAC, Nursery inspection fees, to increase the annual assessment on fruit tree material. The department also plans to amend chapter 16-401 WAC to require that licensed nurseries maintain accurate records of fruit tree sales. Finally, the department will propose amending chapter 16-350 WAC, Registration and certification of fruit tree planting stock, to delete the fruit tree material assessment amount, since it is already specified in chapter 16-401 WAC, and to correct an RCW reference in chapter 16-350 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.13, 15.14, and 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This proposal is in response to the fruit tree nursery industry's recommendation that the current assessment rate be increased from 1% to 2%. Doubling the assessment will generate \$200,000 additional program revenue per year, an amount necessary to support the services of the fruit tree certification program. This increased assessment will also allow the program to continue to facilitate the movement of virus-tested fruit trees in both domestic and international markets and to continue to assist in keeping Washington state orchards free of harmful virus diseases.

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

Process for Developing New Rule: Department staff will discuss any proposed fee increases, as well as other proposed amendments, with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Plant

WSR 03-14-140

PREPROPOSAL STATEMENT OF INQUIRY EMPLOYMENT SECURITY DEPARTMENT

[Filed July 2, 2003, 8:59 a.m.]

Subject of Possible Rule Making: Adopt rules to implement the changes contained in chapter 4, Laws of 2003 2nd sp.s. (2ESB 6097) to the unemployment compensation program. Interpretive rules will clarify requirements related to job separations due to voluntary quits and discharges, penalties for gross misconduct, part-time workers, job search requirements, and the calculation of maximum benefits payable. Rules will be adopted to define terms. Existing rules related to job separations, job search requirements, and suitable work will be amended.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50.12.010, 50.12.040, and section 34, chapter 4, Laws of 2003 2nd sp.s.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislation substantively revises the state laws that govern an individual's eligibility for unemployment benefits. These changes represent significant changes to the decision-making process. Interpretive rules will be needed to clarify how eligibility will be determined under the new laws. Existing rules apply only to claims filed prior to January 4, 2004, and must be amended to reflect the new statutes. The calculation of maximum benefits payable needs to be clarified in terms of how it is calculated and the effective date of any change. The rules will clarify for claimants and employers how the department will implement those sections of the legislation that pertain to job separations, job search requirements, suitable work, and the calculation of maximum benefits payable.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Labor (USDOL) reviews the state's administration of the unemployment insurance program to ensure conformity to federal statutes and regulations. The state has broad flexibility in the implementation of unemployment insurance laws as long as conformity is maintained. The proposed regulations will be shared with USDOL prior to adoption.

Process for Developing New Rule: The department intends to hold informal meetings with stakeholders and interested parties to obtain input on the proposed rules.

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

lication. Persons interested in attending meetings to discuss the proposed rules should contact Juanita Myers, Unemployment Insurance Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 902-9665, fax (360) 902-9799, e-mail jmyers@esd.wa.gov.

June 30, 2003
Dr. Sylvia P. Mundy
Commissioner

ment Insurance Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 902-9665, fax (360) 902-9799, e-mail jmyers@esd.wa.gov.

June 30, 2003
Dr. Sylvia P. Mundy
Commissioner

WSR 03-14-141

PREPROPOSAL STATEMENT OF INQUIRY EMPLOYMENT SECURITY DEPARTMENT

[Filed July 2, 2003, 9:00 a.m.]

Subject of Possible Rule Making: Adopt rules to implement the changes contained in chapter 4, Laws of 2003 2nd sp.s. (2ESB 6097) to the unemployment compensation system. Interpretive rules will clarify requirements related to effective dates, voluntary contributions, benefit charging, employer penalties, and establishing reasonable audit expenses. Rules will be adopted to define terms. Existing rules related to successor employers, penalties, and benefit charging will be amended.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 50.12.010, 50.12.040, and section 34, chapter 4, Laws of 2003 2nd sp.s.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The legislation revises the unemployment compensation system through creation of forty rate classes for determining employer contribution rates. It also amends statutes related to benefit charging, the social cost factor rate, predecessor-successor employers, and employer penalties. Substantive and interpretive rules are needed to clarify tax rates, effective dates of various provisions, establish a table of employer penalties and audit expenses, and define terms. Existing rules must be amended to reflect the new statutes. The rules will clarify for employers how the department will implement those sections of the legislation that pertain to rate calculations, voluntary contributions, benefit charging, and penalties for employers who fail to comply with statute.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Labor (USDOL) reviews the state's administration of the unemployment insurance program to ensure conformity to federal statutes and regulations. The state has broad flexibility in the implementation of unemployment insurance laws as long as conformity is maintained. The proposed regulations will be shared with USDOL prior to adoption.

Process for Developing New Rule: The department intends to hold informal meetings with stakeholders and interested parties to obtain input on the proposed rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Persons interested in attending meetings to discuss the proposed rules should contact Juanita Myers, Unemploy-

WSR 03-14-142

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed July 2, 2003, 10:19 a.m.]

Subject of Possible Rule Making: Chapter 16-449 WAC, Washington controlled atmosphere storage requirements for winter pears; chapter 16-459 WAC, Controlled atmosphere storage; and chapter 16-690 WAC, Fruit storage.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.17 RCW, Standards of grades and packs; chapter 34.05 RCW, Administrative Procedure Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department has conducted a rule review mandated by Executive Order 97-02 and concluded that chapters 16-449, 16-459, and 16-690 WAC should be:

- Combined into one Washington Administrative Code chapter in order to streamline the regulations and eliminate redundancies.
- Rewritten and reformatted so the rules are easier to understand, use and administer.
- Updated to reflect current industry practice and technology.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Department of Agriculture is the only agency that regulates the subject of these rules.

Process for Developing New Rule: Fruit and vegetable inspection program staff will develop proposed rule language utilizing industry recommendations. Industry representatives will review the proposed rule language once it is developed. Finally, members of the industry and the general public will have an opportunity to comment on the department's proposed rule language during the public hearing/public comment process required by chapter 34.05 RCW.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jim Quigley, Program Manager, Fruit and Vegetable Inspection Program, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2085, phone (360) 902-1833.

July 2, 2003
Robert W. Gore
Assistant Director

WSR 03-14-144
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF HEALTH

[Filed July 2, 2003, 10:53 a.m.]

Subject of Possible Rule Making: WAC 246-926-100 Definitions—Alternative training radiologic technologists, 246-926-110 Diagnostic radiologic technologists—Alternative training, 246-926-120 Therapeutic radiologic technologists—Alternative training, and 246-926-130 Nuclear medicine technologist—Alternative training.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 18.84.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: There is a critical shortage of certified technologists. The rules, as currently written, lend themselves to becoming a barrier to certification by hindering the alternative training program process. The training requirements and processes need to be updated to reflect the changes/advances in technology.

Process for Developing New Rule: Collaborative rule making, public meetings and mailings to interested persons.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Holly Rawnsley, Program Manager, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4941, fax (360) 236-2406, e-mail Holly.Rawnsley@doh.wa.gov. Interested persons can participate through meetings and by submitting written comments.

July 1, 2003

Mary C. Selecky
Secretary

WSR 03-12-066

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed June 2, 2003, 4:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-10-112.

Title of Rule: Chapter 388-805 WAC, Certification requirements for chemical dependency service providers.

Purpose: Establishes the level of quality and patient care standards for chemical dependency service providers seeking certification by DSHS/Division of Alcohol and Substance Abuse (DASA).

Statutory Authority for Adoption: RCW 70.96A.090.

Statute Being Implemented: Chapter 70.96A RCW.

Summary: 1. DASA is proposing amendments to chapter 388-805 WAC. The key new rules and amendments proposed will implement:

a. 42 C.F.R., Part 8; Certification of Opioid Treatment Programs, effective May 18, 2001, which include major changes to the federal requirements adopted by the Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration.

b. RCW 70.96A.400 - [70.96A.]420, effective July 22, 2001 (chapter 242, Laws of 2001), amended by the 2001 Washington state legislature.

In response, emergency WAC adoptions were submitted to the Code Reviser's Office on March 8, 2002, July 5, 2002, November 1, 2002, and February 28, 2003, effective for one hundred twenty days each. The emergency rules amended Washington state administrative codes to recognize CSAT certification standards and implement the changes made to RCW 70.96A.400, [70.96A.]410, and [70.96A.]420.

2. In addition, DASA stakeholders recommended using the American Society of Addiction Medicine, Patient Placement Criteria (PPC), primarily for patient placement, continued service, and discharge criteria. The proposed WAC revision reduces regulatory use of PPC for treatment planning activities. Other revisions include:

a. A new WAC section is proposed to require agencies to report critical incidents to DASA within 48 hours of the critical incident.

b. Language to clarify the requirements for outcomes evaluation, outpatient treatment requirements for patients convicted of DUI or physical control pursuant to chapter 46.61 RCW, and definitions of court ordered treatment in WAC 388-805-330.

c. Language to revise the WAC section on fees collected by DASA for change of agency ownership applications.

d. Language to revise ADATSA assessment center certification and ADATSA requirements.

e. Language to acknowledge faith-based programs.

f. Language to recognize Chemical Dependency Professionals as Alcohol/Drug School Instructors.

g. Language to correct inaccurate WAC section citations and typographical errors.

3. In addition, other sections of this chapter were subject to review and amendment deemed appropriate as required by Governor Locke's Executive Order 97-02 on regulatory improvement.

Proposed amended and new rules in chapter 388-805

WAC: Amending WAC 388-805-005 What definitions are important throughout this chapter?, 388-805-010 What chemical dependency services are certified by the department?, 388-805-015 How do I apply for certification as a chemical dependency service provider?, 388-805-030 What are the requirements for opiate treatment substitution treatment program certification? (amended caption and rule text), 388-805-065 How does the department determine disqualification or denial of an application?, 388-805-075 How do I apply for an exemption?, 388-805-085 What are the fees for agency certification?, 388-805-090 May certification fees be waived?, 388-805-100 What do I need to do to maintain agency certification?, 388-805-120 How does the department assess penalties?, 388-805-130 How does the department suspend or revoke certification?, 388-805-140 What are the requirements for a provider's governing body?, 388-805-145 What are the key responsibilities required of an agency administrator?, 388-805-150 What must be included in an agency administration manual?, 388-805-205 What are agency personnel file requirements?, 388-805-210 What are the responsibilities for approved supervisors of persons who are in training to become a chemical dependency professional? (caption and text amended), 388-805-220 What are the requirements to be a probation assessment officer?, 388-805-250 What are the requirements to be an information school instructor?, 388-805-300 What must be included in the agency clinical manual?, 388-805-305 What are patient's rights requirements in certified agencies?, 388-805-310 What are the requirements for chemical dependency assessments?, 388-805-315 What are the requirements for treatment, continuing care, transfer, and discharge plans?, 388-805-320 What are the requirements for a patient record system?, 388-805-325 What are the requirements for patient record content?, 388-805-350 What are the requirements for outcome evaluation?, 388-805-400 What are the requirements for detoxification providers?, 388-805-410 What are the requirements for detox staffing and services?, 388-805-500 What are the requirements for residential providers?, 388-805-520 What are the requirements for youth behavior management? (caption and text amended), 388-805-530 What are the requirements for incentive inpatient services? 388-805-540 What are the requirements for recovery house services?, 388-805-550 What are the requirements for long-term treatment services?, 388-805-600 What are the requirements for outpatient providers?, 388-805-610 What are the requirements for intensive outpatient treatment services?, 388-805-625 What are the requirements for outpatient services for persons subject to RCW 46.61.5056?, 388-805-700 What are the requirements for opiate substitution treatment program providers? (caption and text amended), 388-805-710 What are the requirements for opiate substitution treatment medical management?, 388-805-720 What are the requirements for drug testing in opiate substitution treatment? (caption and text amended), 388-805-730 What are the requirements for opiate

PROPOSED

substitution treatment dispensaries?, 388-805-740 What are the requirements for opiate substitution treatment counseling?, 388-805-750 What are the requirements for opiate substitution treatment take-home medications?, 388-805-800 What are the requirements for ADATSA assessment services? (caption and text amended), 388-805-810 What are the requirements for DUI assessment providers?, 388-805-820 What are the requirements for alcohol and other drug information school? and 388-805-850 What are the requirements for treatment accountability for safer communities (TASC) providers and services? (caption and text amended); and new sections WAC 388-805-035 What are the responsibilities for the department when an applicant applies for approval of an opiate substitution treatment program?, 388-805-040 How does the department determine there is a need in the community for opiate substitution treatment?, and 388-805-715 What are the requirements for opiate substitution medication management?

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dennis Malmer, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, (360) 438-8086, (877) 301-4557 (toll free).

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

Rule is necessary because of federal law, 42 C.F.R., Part 8.

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

Proposal Changes the Following Existing Rules: See Summary above.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The Department of Social and Health Services (DSHS), Division of Alcohol and Substance Abuse (DASA) is proposing to revise chapter 388-805 WAC, Certification requirements for chemical dependency service providers.

The purpose of this chapter is to describe the standards and processes necessary for certifying chemical dependency treatment service providers.

The proposed amendments to this chapter include:

- The Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration adopted 42 C.F.R., Part 8, Certification of Opioid Treatment Programs, on January 17, 2001, effective May 18, 2001. The federal rules made changes to the federal requirements for certifying opiate substitution treatment programs.
- The 2001 Washington state legislature amended RCW 70.96A.400-[70.96A.]420, effective July 22, 2001.

In response, emergency WAC adoptions were submitted to the Code Reviser's Office on March 8, 2002, July 5, 2002, November 1, 2002, and February 28, 2003, effective for one hundred twenty days each. The emergency rules amended Washington state administrative codes to recognize CSAT certification standards and implement the changes made to RCW 70.96A.400, [70.96A.]410, and [70.96A.]420.

- DASA stakeholders recommended using the American Society of Addiction Medicine, Patient Placement Criteria (PPC), primarily for patient placement, continued service, and discharge criteria. The proposed WAC revision reduces regulatory use of PPC for treatment planning activities.
- A new WAC section is proposed to require agencies to report critical incidents to DASA within 48 hours of the critical incident.
- Language is proposed to clarify the requirements for outcomes evaluation, outpatient treatment requirements for patients convicted of DUI or physical control pursuant to chapter 46.61 RCW, and definitions of court ordered treatment in WAC 388-805-330.
- Language is proposed to revise the WAC section on fees collected by DASA for change of agency ownership applications.
- Language is proposed to revise ADATSA assessment center certification and ADATSA requirements.
- Language is proposed to acknowledge faith-based programs.
- Language is proposed to recognize chemical dependency professionals as alcohol/drug information school instructors.
- Language is proposed to correct inaccurate WAC section citations and typographical errors.
- In addition, other sections of this chapter were subject to review and amendment deemed appropriate as required by Governor Locke's Executive Order 97-02 on regulatory improvement.

This chapter has been rewritten in plain English, using a question and answer format to make it more understandable to our customers. Unnecessary rules have been eliminated and others have been clarified.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT: Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses and that it outlines the information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a more than minor economic impact on business. DASA has analyzed the proposed amendments to its rules and has determined that small businesses will not be impacted by these changes.

INDUSTRY ANALYSIS: DASA is responsible for certifying chemical dependency treatment agencies. As part of its monitoring, DASA keeps a current internal database that identifies all certified agencies. Since internal industry information can be obtained at a more accurate level than is required by chapter 19.85 RCW, it is unnecessary to conduct an industry analysis using the four-digit standard industrial classification (SIC) codes.

DASA previously determined that there were one hundred twenty-six existing agencies (private and for-profit) that meet the criteria for small businesses under RCW 19.85.020. In 2003, DASA decided to consider economic impacts on all DASA certified agencies (private, for-profit, and public funded) therefore the industry analysis includes five hundred eighteen certified agencies.

INVOLVEMENT OF SMALL BUSINESSES AND OTHER DASA CERTIFIED AGENCIES: Many small businesses have been involved in writing the proposed rules and in ascertaining the costs associated with proposed rule changes. DASA engaged assistance of a writing group, which included representation from small businesses. DASA met and talked several times with a number of small businesses to consider costs that would impact their businesses.

Attached to this document is a list of the WAC Revision Committee members who participated in determining the costs associated with new rules [no further information supplied by agency].

COST OF COMPLIANCE: To consider costs of compliance, DASA elected to look at cost per patient. This is because:

- Patients drive the businesses that provide chemical dependency treatment and so using the cost per patient is a more accurate depiction of costs than costs per employee;
- Business decisions and planning are based on the number of patients served; and,
- The number of patients also influences the total amount that the most significant proposed changes will cost.

The costs of proposed rule changes fall in one main area. With proposed changes to WAC 388-805-030 through 388-805-040, and 388-805-700 through 388-805-750, opiate substitution treatment programs will experience increased costs as a result of changes in federal rule 42 C.F.R. Part 8, which requires OTPs to become accredited by a nationally recognized accreditation body. A number of Washington state OTPs have elected to become accredited by DASA and therefore were able to offset the initial costs of accreditation because DASA received a federal grant on April 15, 2002, to assist these agencies in meeting accreditation requirements.

CONCLUSION: DASA, in collaboration with the members of the WAC Revision Committee of 2003, have given careful consideration to the impact on small businesses and other DASA certified agencies of proposed rules in chapter 388-805 WAC, Certification requirements for chemical dependence service providers. In accordance with the Regulatory Fairness Act, chapter 19.85 RCW, DASA has analyzed impacts on small businesses and other DASA certified agencies and has determined that the costs of implementing revisions to chapter 388-805 WAC will generally be reduced.

OTPs will experience increased costs as a result of changes in federal rule 42 C.F.R. Part 8, which requires OTPs to become accredited by a nationally recognized accreditation body. A number of Washington state OTPs have elected to become accredited by DASA. Therefore, the initial costs of accreditation were offset because DASA received a federal grant on April 15, 2002, to assist these agencies in meeting accreditation requirements.

DASA recognizes that there are costs associated with rule making on all DASA certified agencies to change policy and procedure manuals after implementation of new or revised rules.

The majority of the rule changes, however, offer cost and time savings by eliminating, reducing, or streamlining requirements.

A copy of the statement may be obtained by writing to Dennis W. Malmer, Division of Alcohol and Substance Abuse, P.O. Box 45330, Olympia, WA 98504-5330, phone (360) 438-8086, fax (360) 438-8057, toll free (877) 301-4557, e-mail malmedw@dshs.wa.gov.

RCW 34.05.328 applies to this rule adoption. A copy of the cost benefit analysis may be obtained by contacting the person in Name of Agency Personnel above.

Hearing Location: Blake Office Park (East) (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by August 1, 2003, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensfh@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, e-mail swensfh@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on August 5, 2003.

Date of Intended Adoption: Not sooner than August 6, 2003.

May 29, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-005 What definitions are important throughout this chapter? "Added service" means the adding of certification for chemical dependency levels of care to an existing certified agency at an approved location.

"Addiction counseling competencies" means the knowledge, skills, and attitudes of chemical dependency counselor professional practice as described in Technical Assistance Publication No. 21, Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services 1998.

"Administrator" means the person designated responsible for the operation of the certified treatment service.

"Adult" means a person eighteen years of age or older.

"Alcoholic" means a person who has the disease of alcoholism.

"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.

"Approved supervisor" means a person who meets the education and experience requirements described in WAC 246-811-030 and 246-811-045 through 246-811-049 and who is available to the person being supervised.

"Authenticated" means written, permanent verification of an entry in a patient treatment record by an individual, 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. If patient records are maintained electronically, unique electronic passwords, biophysical or passcard equipment are acceptable methods of authentication.

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

- (1) Full printed name;
- (2) Signature including the first initial and last name; and
- (3) Initials and abbreviations indicating professional designation or job title.

"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).

"Branch site" means a physically separate certified site where qualified staff provides a certified treatment service, governed by a parent organization. The branch site is an extension of a certified provider's services to one or more sites.

"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 388-805 WAC.

"Change in ownership" means one of the following conditions:

- (1) When the ownership of a certified chemical dependency treatment provider changes from one distinct legal entity (owner) to a distinct other;
- (2) When the type of business changes from one type to another; or
- (3) When the current ownership takes on a new owner of five percent or more of the organizational assets.

"Chemical dependency" means a person's alcoholism or drug addiction or both.

"Chemical dependency counseling" means face-to-face individual or group contact using therapeutic techniques that are:

- (1) Led by a chemical dependency professional (CDP), or CDP trainee under supervision of a CDP;
- (2) Directed toward patients and others who are harmfully affected by the use of mood-altering chemicals or are chemically dependent; and
- (3) Directed toward a goal of abstinence for chemically dependent persons.

"Chemical dependency professional" means a person certified as a chemical dependency professional by the Washington state department of health under chapter 18.205 RCW.

"Child" means a person less than eighteen years of age, also known as adolescent, juvenile, or minor.

"Clinical indicators" include, but are not limited to, inability to maintain abstinence from alcohol or other nonprescribed drugs, positive drug screens, patient report of a subsequent alcohol/drug arrest, patient leaves program against program advice, unexcused absences from treatment, lack of participation in self-help groups, and lack of patient progress in any part of the treatment plan.

"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.

"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.

"Critical incidents" includes serious injury or sexual assault of patients, staff members, or public citizens on the premises; a natural disaster presenting a threat to facility operation or patient safety; a bomb threat; a break in or a burglary of patient identifying information; suicide attempt at the facility; or, a case alleging abuse or neglect of an adult patient by an agency staff member that was not resolved by the agency's grievance procedure.

"CSAT" means the Federal Center For Substance Abuse Treatment, a Substance Abuse Service Center of the Substance Abuse and Mental Health Services Administration.

"Danger to self or others," for purposes of WAC 388-805-520, means a youth who resides in a chemical dependency treatment agency and 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:

- (1) Suicide threat or attempt;
- (2) Assault or threat of assault; or
- (3) Attempt to run from treatment, potentially resulting in a dangerous or life-threatening situation.

"Department" means the Washington state department of social and health services.

"Determination of need" means a process used by the department for opiate substitution treatment program certification applications as described in WAC 388-805-040.

"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.

"Disability, a person with" means a person whom:

- (1) Has a physical or mental impairment that substantially limits one or more major life activities of the person;
- (2) Has a record of such an impairment; or
- (3) Is regarded as having such an impairment.

"Discrete treatment service" means a chemical dependency treatment service that:

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

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

(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 treatment services.

"Domestic violence" means:

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

(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, 26.50.010, or other Washington state statutes.

"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.

"Essential requirement" means a critical element of chemical dependency treatment services that must be present in order to provide effective treatment.

"Faith-based organization" means an agency or organization such as a church, religiously affiliated entity, or religious organization.

"First steps" means a program available across the state for low-income pregnant women and their infants. First steps provides maternity care for pregnant and postpartum women and health care for infants and young children.

"Governing body" means the legal entity responsible for the operation of the chemical dependency treatment service.

"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.

"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.

"Medical practitioner" means a physician, advanced registered nurse practitioner (ARNP), or certified physician's assistant. ARNPs and midwives with prescriptive authority may perform practitioner functions related only to indicated specialty services.

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

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

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

"Off-site treatment" means provision of chemical dependency treatment by a certified provider at a location where treatment is not the primary purpose of the site; such as in schools, hospitals, or correctional facilities.

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

(1) ~~(Approved by the Federal Food and Drug)~~ Certified as an opioid treatment program by the Federal Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration;

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

(3) Registered (~~with~~) by the State Board of Pharmacy;

(4) ~~(Licensed by the county in which it operates)~~ Accredited by an opioid treatment program accreditation body approved by the Federal Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration; and

(5) Certified as an opiate substitution treatment (~~agency~~) program by the department.

"Outcomes evaluation" means a system for determining the effectiveness (~~and efficiency~~) of results achieved by patients during or following service delivery, and patient satisfaction with those results for the purpose of program improvement.

"Patient" is a person receiving chemical dependency treatment services from a certified program.

"Patient contact" means time spent with a client or patient to do assessments, individual or group counseling, or education.

"Patient placement criteria (PPC)" means admission, continued service, and discharge criteria found in 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 that meets the PAO requirements of WAC 388-805-220.

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

"Progress notes" are a permanent record of ongoing assessments of a patient's participation in and response to treatment, and progress in recovery.

"Qualified personnel" means trained, qualified staff, consultants, trainees, and volunteers who meet appropriate legal, licensing, certification, and registration requirements.

"Registered counselor" means a person registered, or certified by the state department of health as required by chapter 18.19 RCW.

"Relocation" means change in location from one office space to a new office space, or moving from one office building to another.

"Remodeling" means expansion of existing office space to additional office space at the same address, or

remodeling of interior walls and space within existing office space.

~~("Restraint," for purposes of WAC 388-805-520, means the use of methods, by a trained staff person, to prevent or limit free body movement in case of out-of-control behavior.~~

~~"Restraint" includes:~~

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

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

"SAMHSA" means the Federal Substance Abuse and Mental Health Services Administration.

"Self-help group" means community based support groups that address chemical dependency.

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

- (1) Legal entity/owner;
- (2) Facility; and
- (3) Staff and services.

"Sexual abuse" means sexual assault, incest, or sexual exploitation.

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

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

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

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

"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.

"Supervision" means:

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

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

"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.

"TARGET" means the treatment and assessment report generation tool.

"Treatment plan review" means a review of active problems on the patient's individualized treatment plan, the need to address new problems, and patient placement.

"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 that may be extended to alcoholics and other drug addicts and their families, persons incapacitated by alcohol or other drugs, and intoxicated persons.

"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:

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

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

"Vulnerable adult" means a person who lacks the functional, mental, or physical ability to care for oneself.

"Young adult" means an adult who is eighteen, nineteen, or twenty years old.

"Youth" means a person seventeen years of age or younger.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-010 What chemical dependency services are certified by the department? (1) The department certifies the following types of chemical dependency services:

(a) **Detoxification services**, which assist patients in withdrawing from alcohol and other drugs including:

(i) **Acute detox**, which provides medical care and physician supervision for withdrawal from alcohol or other drugs; and

(ii) **Subacute detox**, which is nonmedical detoxification or patient self-administration of withdrawal medications ordered by a physician, provided in a home-like environment.

(b) **Residential treatment services**, which provide chemical dependency treatment for patients and include room and board in a twenty-four-hour-a-day supervised facility, including:

(i) **Intensive inpatient**, a concentrated program of individual and group counseling, education, and activities for detoxified alcoholics and addicts, and their families;

(ii) **Recovery house**, a program of care and treatment with social, vocational, and recreational activities to aid in patient adjustment to abstinence and to aid in job training, employment, or other types of community activities; and

(iii) **Long-term treatment**, a program of treatment with personal care services for chronically impaired alcoholics and addicts with impaired self-maintenance capabilities.

These patients need personal guidance to maintain abstinence and good health.

(c) **Outpatient treatment services**, which provide chemical dependency treatment to patients less than twenty-four hours a day, including:

(i) **Intensive outpatient**, a concentrated program of individual and group counseling, education, and activities for detoxified alcoholics and addicts and their families;

(ii) **Outpatient**, individual and group treatment services of varying duration and intensity according to a prescribed plan; and

(iii) **Opiate substitution outpatient treatment**, which meets both outpatient and opiate substitution treatment program service requirements.

(d) **Assessment services**, which include:

(i) **ADATSA assessments**, alcohol and other drug assessments of clients seeking financial assistance from the department due to the incapacity of chemical dependency. Services include assessment, referral, case monitoring, and assistance with employment; and

(ii) **DUI assessments**, diagnostic services requested by the courts to determine a client's involvement with alcohol and other drugs and to recommend a course of action.

(e) **Information and assistance services**, which include:

(i) **Alcohol and drug information school**, an education program about the use and abuse of alcohol and other drugs, for persons referred by the courts and others, who do not present a significant chemical dependency problem, to help those persons make informed decisions about the use of alcohol and other drugs;

(ii) **Information and crisis services**, response to persons having chemical dependency needs, by phone or in person;

(iii) **Emergency service patrol**, assistance provided to intoxicated persons in the streets and other public places;

(iv) **Treatment ~~((alternatives to street crime))~~ accountability for safer communities (TASC)**, is a referral and case management service. TASC providers furnish a link between the criminal justice system and the treatment system. TASC identifies, assesses, and refers appropriate alcohol and other drug dependent offenders to community-based substance abuse treatment and monitors the outcome for the criminal justice system.

(2) The department may certify a provider for more than one of the services listed under subsection (1) of this section when the provider complies with the specific requirements of the selected services.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-015 How do I apply for certification as a chemical dependency service provider? (1) A potential new chemical dependency service provider, ~~((otherwise))~~ referred to as applicant, seeking certification for one or more services, as described under WAC 388-805-010, must:

(a) Request from the department an application packet of information on how to become a certified chemical dependency service provider; and

(b) Obtain a license as a residential treatment facility from the department of health, if planning to offer residential services.

(2) The applicant must submit a completed application to the department that includes:

(a) If the applicant is a sole provider: The name and address of the applicant, and a statement of sole proprietorship;

(b) If the applicant is a partnership: The name and address of every partner, and a copy of the written partnership agreement;

(c) If the applicant is a limited liability company: The name and addresses of its officers, and any owner of five percent or more of the organizational assets, and a copy of the certificate of formation issued by the state of Washington, secretary of state;

(d) If the applicant is a corporation: The names and addresses of its officers, board of directors and trustees, and any owner of five percent or more of the organizational assets, and a copy of the corporate articles of incorporation and bylaws;

(e) A copy of the master business license authorizing the organization to do business in Washington state;

(f) The social security number or Federal Employer Identification Number for the governing organization or person;

(g) The name of the individual administrator under whose management or supervision the services will be provided;

(h) A copy of the report of findings from a criminal background check of any owner of five percent or more of the organizational assets and the administrator;

(i) Additional disclosure statements or background inquiries if the department has reason to believe that offenses, specified under RCW 43.43.830, have occurred since completion of the original application;

(j) The physical location of the facility where services will be provided including, in the case of a location known only by postal route and box numbers, and the street address;

(k) A plan of the premises assuring the chemical dependency treatment service is discrete from other programs, indicating capacities of the location for the proposed uses;

(l) Floor plan showing use of each room and location of:

(i) Windows and doors;

(ii) Restrooms;

(iii) Floor to ceiling walls;

(iv) Areas serving as confidential counseling rooms;

(v) Other therapy and recreation areas and rooms;

(vi) Confidential patient records storage; and

(vii) Sleeping rooms, if a residential facility.

(m) A completed facility accessibility self-evaluation form;

(n) Policy and procedure manuals specific to the agency at the proposed site, and meet the manual requirements described later in this regulation, including the:

(i) Administrative manual;

(ii) Personnel manual; and

PROPOSED

- (iii) Clinical manual.
 - (o) Sample patient records for each treatment service applied for; and
 - (p) Evidence of sufficient qualified staff to deliver services.
- (3) In addition to the requirements in this section, a faith-based organization may implement the requirements of the federal Public Health Act, Sections 581-584 and Section 1955 of 24 U.S.C. 290 and 42 U.S.C. 300x-65.
- (4) The agency owner or legal representative must:
- (a) Sign the completed application form and submit the original to the department;
 - (b) Send a copy of the completed application form to the county coordinator in the county where services will be provided;
 - (c) Submit the application fee with the application materials; and
 - (d) Report any changes occurring during the certification process.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-030 (~~How do I apply~~) What are the requirements for opiate substitution treatment ((service)) program certification? Certification as an opiate substitution treatment program is contingent on the concurrent approval by applicable state regulatory authorities; certification as an opioid treatment program by the Federal CSAT SAMHSA; accreditation by an opioid treatment program accreditation body approved by the Federal CSAT SAMSHA; and licensure by the Federal Drug Enforcement Administration. In addition to WAC 388-805-015 or 388-805-020 requirements, a potential opiate substitution treatment ((service)) program provider must submit to the department:

(1) (~~Evidence of licensure from the county served, or evidence the county has authorized a specific certified agency to provide opiate substitution treatment, per RCW 70.96A.400 through 70.96A.420~~) Documentation the provider has communicated with the county legislative authority and if applicable, the city legislative authority, in order to secure a location for the new opiate substitution treatment program that:

- (a) Meets county or city land use ordinances; and
- (b) Includes a plan to minimize the impact of the opiate substitution treatment programs upon the business and residential neighborhoods in which the program is located. The plan must include strategies used to:
 - (i) Obtain and document community input regarding the proposed location;
 - (ii) Strategies used to address any concerns identified by the community; and
 - (iii) An ongoing community relations plan to address new concerns expressed by community members as they arise.

(2) A copy of the application for a registration certificate from the Washington state board of pharmacy.

(3) A copy of the application for licensure to the Federal Drug Enforcement Administration.

(4) A copy of the application for certification to the Federal (~~Food and Drug Administration~~) CSAT SAMHSA.

(5) A copy of the application for accreditation by an accreditation body approved as an opioid treatment program accreditation body by the Federal CSAT SAMHSA.

(6) Policies and procedures identified under WAC 388-805-700 through 388-805-750.

~~((6) Certification for opiate substitution treatment is contingent on the concurrent approval by the applicable county, state, and federal regulatory authorities))~~

(7) Documentation that transportation systems will provide reasonable opportunities to persons in need of treatment to access the services of the program.

(8) At least three letters of support from other providers within the existing health care system in the area the applicant proposes to establish a new opiate substitution treatment program to demonstrate an appropriate relationship to the service area's existing health care system.

(9) A declaration to limit the number of individual program participants to three hundred fifty as specified in RCW 70.96A.410 (1)(e).

(10) For new applicants, who operate opiate substitution treatment programs in another state, copies of national and state certification/accreditation documentation, and copies of all survey reports written by national and/or state certification or accreditation organizations for each site they have operated an opiate substitution program in over the past six years.

NEW SECTION

WAC 388-805-035 What are the responsibilities for the department when an applicant applies for approval of an opiate substitution treatment program? For purposes of this section, "area" means the county in which an opiate substitution treatment program applicant proposes to locate a certified program, and counties adjacent or near to the county in which the program is proposed to be located. When making a decision on an application for certification of a program, the department must:

(1) Consult with the county legislative authority in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program. The department will request the county and city legislative authority to notify the department of any applicable requirements or other issues that the department should consider in order to fulfill the requirements of WAC 388-805-030 (6) and (7), or 388-805-040 (1) through (5);

(2) Not discriminate in its certification decision on the basis of the corporate structure of the applicant;

(3) Consider the size of the population in need of treatment in the area in which the program would be located and certify only applicants whose programs meet the necessary treatment needs of the population;

(4) Determine there is a need in the community for opiate substitution treatment and not certify more program slots

than justified by the need in that community as described in WAC 388-805-040;

(5) Consider whether the applicant has the capability, or has in the past demonstrated the capability to provide appropriate treatment services to assist persons in meeting legislative goals of abstinence from opiates and opiate substitutes, obtaining mental health treatment, improving economic independence, and reducing adverse consequences associated with illegal use of controlled substances;

(6) Hold at least one public hearing in the county in which the facility is proposed to be located and one public hearing in the area in which the facility is proposed to be located. After consultation with the county legislative authority, the department may have the public hearing in the adjacent county with the largest population, the adjacent county with the largest underserved population, or the county nearest to the proposed site. The hearing must be held at a time and location most likely to permit the largest number of interested persons to attend and present testimony. The department must notify appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

NEW SECTION

WAC 388-805-040 How does the department determine there is a need in the community for opiate substitution treatment? The department will determine whether or not there is a demonstrated need in the community for opiate substitution treatment from information provided to the department by the applicant and through department consultation with the city and county legislative authority, and other appropriate community resources. A "determination of need" for a proposed program will include a review and evaluation of the following criteria:

(1) For the number of potential clients in an area, the department will consider the size of the population in need of treatment in the area in which the program would be located using adult population statistics from the most recent area population trend reports. The department will use the established ratio of .7 percent of the adult population as an estimate for the number of potential clients with an opiate diagnosis in need of treatment services.

(2) For the number of anticipated program slots in an area, the department will multiply the sum of the established ratio of .7 percent of the adult population in subsection (1) of this section by thirty-five percent to determine an estimate of the anticipated need for the number of opiate substitution treatment program slots in the area in which the program would be located.

(3) Demographic and trend data from the area in which the program would be located including the most recent department county trend data, TARGET admission data for opiate substitution treatment from the area, hospital and emergency department admission data from the area, needle exchange data from the area, and other relevant reports and data from city and county health organizations demonstrating the need for opiate substitution treatment program services.

(4) Availability of other opiate substitution treatment programs near the area of the applicant's proposed program. The department will determine the number of patients, capacity, and accessibility of existing opiate substitution treatment programs near the area of the applicant's proposed program and whether existing programs have the capacity to assume additional patients for treatment services.

(5) Whether the population served or to be served has need for the proposed program and whether other existing services and facilities of the type proposed are available or accessible to meet that need. The assessment will include, but not limited to, consideration of the following:

(a) The extent to which the proposed program meets the need of the population presently served;

(b) The extent to which the underserved need will be met adequately by the proposed program; and

(c) The impact of the service on the ability of low-income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups to obtain needed health care.

(6) The department will review agency policies and procedures that describe the cost of services to clients, sliding fee scales, and charity care policies, procedures, and goals.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-065 How does the department determine disqualification or denial of an application? The department must consider the ability of each person named in the application to operate in accord with this chapter before the department grants or renews certification of a chemical dependency service.

(1) The department must deny an applicant's certification when any of the following conditions occurred and was not satisfactorily resolved, or when any owner or administrator:

(a) Had a license or certification for a chemical dependency treatment service or health care agency denied, revoked, or suspended;

(b) Was convicted of child abuse or adjudicated as a perpetrator of substantiated child abuse;

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

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

(e) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient or displayed acts of discrimination;

(f) Misappropriated patient property or resources;

(g) Failed to meet financial obligations or contracted service commitments that affect patient care;

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

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

(i) The application or materials attached; and

(ii) Any matter under department investigation.

PROPOSED

(j) Refused to allow the department access to records, files, books, or portions of the premises relating to operation of the chemical dependency service;

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

(l) Is in violation of any provision of chapter 70.96A RCW; or

(m) Does not meet criminal background check requirements.

(2) The department may deny certification when an applicant:

(a) Fails to provide satisfactory application materials; or
(b) Advertises itself as certified when certification has not been granted, or has been revoked or canceled.

(3) The department may deny an application for certification of an opiate substitution treatment program when:

(a) There is not a demonstrated need in the community for opiate substitution treatment and/or there is not a demonstrated need for more program slots justified by the need in that community;

(b) There is sufficient availability, accessibility, and capacity of other certified programs near the area in which the applicant proposes to locate the program;

(c) The applicant has not demonstrated in the past, the capability to provide the appropriate services to assist the persons who will utilize the program in meeting goals established by the legislature, including:

(i) Abstinence from opiates and opiate substitutes,
(ii) Obtaining mental health treatment,
(iii) Improving economic independence, and
(iv) Reducing adverse consequences associated with illegal use of controlled substances.

(4) The applicant may appeal department decisions in accord with chapter 34.05 RCW, the Washington Administrative Procedure Act and chapter 388-02 WAC.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-075 How do I apply for an exemption?

(1) The department may grant an exemption from compliance with specific requirements in this WAC chapter (~~when a provider submits an exemption request in writing. The provider must assure the exemption request does not~~) if the exemption does not violate:

~~(a) (Jeopardize the safety, health, or treatment of patients; and)~~ An existing federal or state law; or

~~(b) (Impede fair competition of another service provider)~~ An existing tribal law.

(2) Providers must submit a signed letter requesting the exemption to the Supervisor, Certification Section, Division of Alcohol and Substance Abuse, P.O. Box ~~((45331))~~ 45330, Olympia, WA 98504-~~((5331))~~ 5330. The provider must assure the exemption request does not:

(a) Jeopardize the safety, health, or treatment of patients; and

(b) Impede fair competition of another service provider.

(3) The department must approve or deny all exemption requests in writing.

(4) The department and the provider must maintain a copy of the decision.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-085 What are the fees for agency certification? (1) Application fees:

(a) New agency	\$500
(b) Branch agency	\$500
(c) Application for adding one or more services	\$200
(d) Change in ownership	\$500

(2) Initial and annual certification fees:

(a) For detoxification and residential services:	\$26 per licensed bed
(b) For nonresidential services:	
(i) Large size agencies: 3,000 or more clients served per year	\$1,125 per year
(ii) Medium size agencies: 1,000-2,999 clients served per year	\$750 per year
(iii) Small size agencies: 0-999 clients served per year	\$375 per year
(c) For agencies certified through deeming per WAC ((388-805-0115)) 388-805-115	\$200 per year

(3) Each year providers must complete a declaration form provided by the department indicating the number of patients served annually, the provider's national accreditation status, and other information necessary for establishing fees and updating certification information.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-090 May certification fees be waived?

(1) Certification fees may be waived when:

(a) The fees would not be in the interest of public health and safety~~((-or-when)); or~~

(b) The fees would be to the financial disadvantage of the state; or

(c) The department determines that the cost of processing the application is so small that it warrants granting an application fee waiver.

(2) Providers may submit a letter requesting a waiver of fees to the Supervisor, Certification Section, Division of Alcohol and Substance Abuse, P.O. Box 45331, Olympia, Washington, 98504-5331.

(3) Fee waivers may be granted to qualified provider who receive funding from tribal, federal, state or county government resources as follows:

PROPOSED

(a) For residential providers: The twenty-six dollar per bed annual fee will be assessed only for those beds not funded by a governmental source;

(b) For nonresidential providers: The amount of the fee waiver must be determined by the percent of the provider's revenues that come from governmental sources, according to the following schedule:

Percent Government Revenues	90-100%	75-89%	50-74%	0-49%
Small agency	No fee	\$90	\$185	\$375
Medium agency	No fee	\$185	\$375	\$750
Large agency	No fee	\$285	\$565	\$1,125

(4) Requests for fee waiver must be mailed to the department and include the following:

(a) The reason for the request;

(b) For residential providers:

(i) Documentation of the number of beds currently licensed by the department of health;

(ii) Documentation showing the number of beds funded by a government entity including, tribal, federal, state or county government sources.

(c) For nonresidential providers:

(i) Documentation of the number of clients served during the previous twelve-month period;

(ii) Documentation showing the amount of government revenues received during the previous twelve-month period;

(iii) Documentation showing the amount of private revenues received during the previous twelve-month period.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-100 What do I need to do to maintain agency certification? (1) A service provider's continued certification and renewal is contingent

upon:

(a) Completion of an annual declaration of certification;

and

(b) Payment of certification fees, if applicable.

(2) Providing the essential requirements for chemical dependency treatment, including the following elements:

(a) Treatment process:

(i) Assessments, as described in WAC 388-805-310;

(ii) Treatment planning, as described in WAC 388-805-315 (2)(a) and 388-805-325((11))(10);

(iii) Documenting patient progress, as described in WAC 388-805-315 (1)((e))(b) and 388-805-325((13))(12);

(iv) Treatment plan reviews and updates, as described in WAC 388-805-315 (2)((b))(a), 388-805-325 ((11)(g))(10) and 388-805-325 ((13))(12)(c);

(v) Patient compliance reports, as described in WAC 388-805-315 (4)(b), 388-805-325((17))(16), and 388-805-330;

(vi) Continuing care, and discharge planning, as described in WAC 388-805-315 (2)((e)(f))(c)(d) and (7)(a), and 388-805-325 ((18))(17) and ((19))(18); and

(vii) Conducting individual and group counseling, as described in WAC 388-805-315 (2)(b) and 388-805-325(12).

(b) Staffing: Provide sufficient qualified personnel for the care of patients as described in WAC 388-805-140((4))(5) and 388-805-145((4))(5);

(c) Facility:

(i) Provide sufficient facilities, equipment, and supplies for the care and safety of patients as described in WAC 388-805-140 ((4))(5) and ((5))(6);

(ii) If a residential provider, be licensed by the department of health as described by WAC 388-805-015 (1)(b).

(3) Findings during periodic on-site surveys and complaint investigations to determine the provider's compliance with this chapter. During on-site surveys and complaint investigations, provider representatives must cooperate with department representatives to:

(a) Examine any part of the facility at reasonable times and as needed;

(b) Review and evaluate records, including patient clinical records, personnel files, policies, procedures, fiscal records, data, and other documents as the department requires to determine compliance; and

(c) Conduct individual interviews with patients and staff members.

(4) The provider must post the notice of a scheduled department on-site survey in a conspicuous place accessible to patients and staff.

(5) The provider must correct compliance deficiencies found at such surveys immediately or as agreed by a plan of correction approved by the department.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-120 How does the department assess penalties? (1) When the department determines that a service provider fails to comply with provider entry requirements or ongoing requirements of this chapter, the department may:

(a) Assess fees to cover costs of added certification activities;

(b) Cease referrals of new patients who are recipients of state or federal funds; and

(c) Notify the county alcohol and drug coordinator and local media of ceased referrals, involuntary cancellations, suspensions, revocations, or nonrenewal of certification.

(2) When the department determines a service provider knowingly failed to report ((t)), as ordered by the court pursuant to chapter 46.61 RCW, a patient's noncompliance with treatment (~~(ordered by the court under chapter 46.61 RCW)~~), the department must assess the provider a fine of two hundred fifty dollars for each incident of nonreporting.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-130 How does the department suspend or revoke certification? (1) The department must suspend or revoke a provider's certification when a disqualifying situation described under WAC 388-805-065 applies to a current service provider.

(2) The department must revoke a provider's certification when the provider knowingly failed to report ((t)), as

ordered by the court pursuant to chapter 46.61 RCW, within a continuous twelve-month period, three incidents of patient noncompliance with treatment ordered by the court (~~under chapter 46.61 RCW~~).

(3) The department may suspend or revoke a provider's certification when any of the following provider deficiencies or circumstances occur:

(a) A provider fails to provide the essential requirements of chemical dependency treatment as described in WAC 388-805-100(2), and one or more of the following conditions occur:

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

(ii) A reasonably prudent provider should have been aware of a condition resulting in significant violation of a law or rule;

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

(iv) Noncompliance occurs repeatedly in the same or similar areas;

(v) There is an inability to attain compliance with laws or rules within a reasonable period of time.

(b) The provider fails to submit an acceptable and timely plan of correction for cited deficiencies; or

(c) The provider fails to correct cited deficiencies.

(4) The department may suspend certification upon receipt of a providers written request. Providers requesting voluntary suspension must submit a written request for reinstatement of certification within one year from the effective date of the suspension. The department will review the request for reinstatement, determine if the provider is able to operate in compliance with certification requirements, and notify the provider of the results of the review for reinstatement.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-140 What are the requirements for a provider's governing body? The provider's governing body, legally responsible for the conduct and quality of services provided, must:

(1) Appoint an administrator responsible for the day-to-day operation of the program.

(2) Maintain a current job description for the administrator including the administrator's authority and duties.

(3) Establish the philosophy and overall objectives for the treatment services.

(4) Notify the department within thirty days, of changes of the agency administrator.

(5) Provide personnel, facilities, equipment, and supplies necessary for the safety and care of patients.

(6) If a nonresidential provider, ensure:

(a) Safety of patients and staff; and

(b) Maintenance and operation of the facility.

(7) Review and approve written administrative, personnel, and clinical policies and procedures required under WAC 388-805-150, 388-805-200, and 388-805-300.

(8) Ensure the administration and operation of the agency is in compliance with:

(a) Chapter 388-805 WAC requirements;

(b) Applicable federal, state, tribal, and local laws and rules; and

(c) Applicable federal, state, tribal, and local licenses, permits, and approvals.

(9) The governing body of a certified opiate substitution treatment program must ensure that treatment is provided to patients in compliance with 42 Code of Federal Regulations, Part 8.12.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-145 What are the key responsibilities required of an agency administrator? (1) The administrator is responsible for the day-to-day operation of the certified treatment service, including:

(a) All administrative matters;

(b) Patient care services; and

(c) Meeting all applicable rules and ethical standards.

(2) When the administrator is not on duty or on call, a staff person must be delegated the authority and responsibility to act in the administrator's behalf.

(3) The administrator must ensure administrative, personnel, and clinical policy and procedure manuals:

(a) Are developed and adhered to; and

(b) Are reviewed and revised as necessary, and at least annually.

(4) The administrator must employ sufficient qualified personnel to provide adequate chemical dependency treatment, facility security, patient safety and other special needs of patients.

(5) The administrator must ensure all persons providing counseling services are registered, certified or licensed by the department of health.

(6) The administrator must ensure full-time chemical dependency professionals (CDPs) (~~((a))~~), CDP trainees, or other licensed or registered counselors in training to become a CDP do not exceed one hundred twenty hours of patient contact per month.

(7) The administrator must assign the responsibilities for a clinical supervisor to ~~((a))~~ at least one person within the organization.

(8) The administrator of a certified opiate substitution treatment program must ensure that the number of patients will not exceed three hundred and fifty unless authorized by the county in which the program is located.

(9) The administrator or program sponsor of a certified opiate substitution treatment program must ensure that treatment is provided to patients in compliance with 42 Code of Federal Regulations, Part 8.12.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-150 What must be included in an agency administrative manual? Each service provider must

have and adhere to an administrative manual that contains at a minimum:

- (1) The organization's:
 - (a) Articles and certificate of incorporation if the owner is a corporation;
 - (b) Partnership agreement if the owner is a partnership;
- or
- (c) Statement of sole proprietorship.
- (2) The agency's bylaws if the owner is a corporation.
- (3) Copies of a current master license and state business licenses or a current declaration statement that they are updated as required.

(4) The provider's philosophy on and objectives of chemical dependency treatment with a goal of total abstinence, consistent with RCW 70.96A.011.

(5) ~~((Policies))~~ A policy and procedures describing how services will be made sensitive to the needs of each patient, including assurance that:

- (a) Certified interpreters or other acceptable alternatives are available for persons with limited English-speaking proficiency and persons having a sensory impairment; and
- (b) Assistance will be provided to persons with disabilities in case of an emergency.
- (6) A policy addressing special needs and protection for youth and young adults, and for determining whether a youth or young adult can fully participate in treatment, before admission of:

- (a) A youth to a treatment service caring for adults; or
- (b) A young adult to a treatment service caring for youth.
- (7) An organization chart specifying:
 - (a) The governing body;
 - (b) Each staff position by job title, including volunteers, students, and persons on contract; and
 - (c) The number of full- or part-time persons for each position.

- (8) A delegation of authority policy.
- (9) A copy of current fee schedules.
- (10) ~~((Policies))~~ A policy and procedures implementing state and federal regulations on patient confidentiality, including provision of a summary of 42 CFR Part 2.22 (a)(1) and (2) to each patient.

(11) ~~((Policies))~~ A policy and procedures for reporting suspected child abuse and neglect.

(12) ~~((Policies))~~ A policy and procedures for reporting the death of a patient to the department within one business day when:

- (a) The patient is in residence; or
- (b) An outpatient dies on the premises.
- (13) Patient grievance policy and procedures.
- (14) ~~((Policies))~~ A policy and procedures on reporting of critical incidents and actions taken to the department within two business days when an unexpected event occurs.

(15) ~~((Smoking policies))~~ A smoking policy consistent with the Washington Clean Indoor Air Act, chapter 70.160 RCW.

(16) For a residential provider, a facility security policy and procedures, including:

- (a) Preventing entry of unauthorized visitors; and
- (b) Use of passes for leaves of patients.

(17) For a nonresidential provider, an evacuation plan for use in the event of a disaster, addressing:

- (a) Communication methods for patients, staff, and visitors including persons with a visual or hearing impairment or limitation;
- (b) Evacuation of mobility-impaired persons;
- (c) Evacuation of children if child care is offered;
- (d) Different types of disasters;
- (e) Placement of posters showing routes of exit; and
- (f) The need to mention evacuation routes at public meetings.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-205 What are agency personnel file requirements? (1) The administrator must ensure that there is a current personnel file for each employee, trainee, student, and volunteer, and for each contract staff person who provides or supervises patient care.

(2) The administrator must designate a person to be responsible for management of personnel files.

(3) Each person's file must contain:

(a) 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;

(b) Documentation of training on bloodborne pathogens, including HIV/AIDS and hepatitis B for all employees, volunteers, students, and treatment consultants on contract;

(i) At the time of staff's initial assignment to tasks where occupational exposure may take place;

(ii) Annually thereafter for bloodborne pathogens;

(c) A signed and dated commitment to maintain patient confidentiality in accordance with state and federal confidentiality requirements; and

(d) A record of an orientation to the agency as described in WAC 388-805-200(5).

(4) For residential facilities, documentation of current cardiopulmonary resuscitation (CPR) and first-aid training for at least one person on each shift.

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

(6) Employees who ~~((are patients of))~~ have been patients of the agency must have personnel records:

- (a) Separate from clinical records; and
- (b) Have no indication of current or previous patient status.

(7) In addition, each patient care staff member's personnel file must contain:

(a) Verification of qualifications for their assigned position including:

(i) For a chemical dependency professional (CDP): A copy of the person's valid CDP certification issued by the department of health (DOH);

(ii) For approved supervisors: Documentation to substantiate the person meets the qualifications of an approved supervisor as defined in WAC 246-811-010(-);

(iii) For ~~((other persons providing counseling, a copy of a valid registration, certification, or license issued by the~~

~~DOH~~) each person engaged in the treatment of chemical dependency, including counselors, physicians, nurses, and other registered, certified, or licensed health care professionals, evidence they comply with the credentialing requirements of their respective professions;

(iv) For probation assessment officers (PAO): Documentation that the person has met the education and experience requirements described in WAC 388-805-220;

(v) For probation assessment officer trainees:

(A) Documentation that the person meets the qualification requirements described in WAC 388-805-225; and

(B) Documentation of the PAO trainee's supervised experience as described in WAC 388-805-230 including an individual education and experience plan and documentation of progress toward completing the plan.

(vi) For information school instructors:

(A) A copy of a certificate of completion of an alcohol and other drug information school instructor's training course approved by the department; and

(B) Documentation of continuing education as specified in WAC 388-805-250.

(b) A copy of a current job description, signed and dated by the employee and supervisor which includes:

(i) Job title;

(ii) Minimum qualifications for the position;

(iii) Summary of duties and responsibilities;

(iv) For contract staff, formal agreements or personnel contracts, which describe the nature and extent of patient care services, may be substituted for job descriptions.

(c) A written performance evaluation for each year of employment:

(i) Conducted by the immediate supervisor of each staff member; and

(ii) Signed and dated by the employee and supervisor.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-210 What are the requirements for approved supervisors of persons who are in training to become a chemical dependency professional (~~(trainees)~~)?

(1) When an administrator decides to provide training opportunities for persons seeking to become a chemical dependency (~~(professionals-(CDP) trainees)~~) professional (CDP), the administrator must assign an approved supervisor, as defined in WAC 388-805-005, to each ((CDP trainee)) chemical dependency professional trainee (CDPT), or other licensed or registered counselor.

(2) Approved supervisors must provide the ~~((CDP trainees))~~ CDPT or other licensed or registered counselor assigned to them with documentation substantiating their qualifications as an approved supervisor before the initiation of training.

(3) Approved supervisors must decrease the hours of patient contact allowed under WAC 388-805-145(6) by twenty percent for each full-time ~~((CDP trainee))~~ CDPT or other licensed or registered counselor supervised.

(4) Approved supervisors are responsible for all patients assigned to the ~~((CDP trainees))~~ CDPT or other licensed or registered counselor under their supervision.

(5) An approved supervisor must provide supervision to a ~~((CDP trainee))~~ CDPT or other licensed or registered counselor as required by WAC 246-811-048.

(6) CDPs must review and co-authenticate all clinical documentation of ~~((CDP trainees))~~ CDPTs or other licensed or registered counselors.

(7) Approved supervisors must supervise, assess and document the progress the CDP trainees or other licensed or registered counselors under their supervision are making toward meeting the requirements described in WAC 246-811-030 and 246-811-047. This documentation must be provided to CDP trainees or other licensed or registered counselors upon request.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-220 What are the requirements to be a probation assessment officer? A probation assessment officer (PAO)~~((s))~~ must:

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

(2) Be certified as a chemical dependency professional, or

(3) Have obtained a bachelor's or graduate degree in a social or health sciences field and have completed twelve quarter or eight semester credits from an accredited college or university in courses that include the following topics:

(a) Understanding addiction and the disease of chemical dependency;

(b) Pharmacological actions of alcohol and other drugs;

(c) Substance abuse and addiction treatment methods;

(d) Understanding addiction placement, continuing care, and discharge criteria, including ASAM PPC criteria;

(e) Cultural diversity including people with disabilities and its implication for treatment;

(f) Chemical dependency clinical evaluation (screening and referral to include co-morbidity);

(g) HIV/AIDS brief risk intervention for the chemically dependent;

(h) Chemical dependency confidentiality;

(i) Chemical dependency rules and regulations.

(4) In addition, a PAO must complete:

(a) Two thousand hours of supervised experience as a PAO trainee in a state-certified DUI assessment service program if a PAO possesses a baccalaureate degree;

(b) One thousand five hundred hours of experience as a PAO trainee in a state-certified DUI assessment service program if a PAO possesses a masters or higher degree.

(5) PAOs, must complete fifteen clock hours each year or thirty clock hours every two years of continuing education ~~((each year))~~ in chemical dependency subject areas which will enhance competency as a PAO beginning on January 1 of the year following the year of initial qualification.

~~((6) A PAO is grandparented if they were qualified as a PAO by June 30, 2000, under WAC 440-22-240(2).))~~

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

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-250 What are the requirements to be an information school instructor? (1) An information school instructor must((:

~~(a)) have a certificate of completion of an alcohol and other drug information school instructor's training course approved by the department((; and~~

~~(b) Not have a history of alcohol or other drug misuse for two years before being qualified by the department)) if not a chemical dependency professional (CDP).~~

(2) To remain qualified, the information school instructor must((:

~~(a) Not display misuse of alcohol or other drugs while serving as an information school instructor; and~~

~~(b)) maintain information school instructor status by completing fifteen clock hours of continuing education if not a CDP:~~

~~((i)) (a) During each two-year period beginning January of the year following initial qualification; and~~

~~((ii)) (b) In subject areas that increase knowledge and skills in training, teaching techniques, curriculum planning and development, presentation of educational material, laws and rules, and developments in the chemical dependency field.~~

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-300 What must be included in the agency clinical manual? Each chemical dependency service provider must have and adhere to a clinical manual containing patient care policies and procedures, including:

(1) How the provider meets WAC 388-805-305 through 388-805-350 requirements.

(2) How the provider will meet applicable certified service standards for the level of program service requirements ~~((of WAC 388-805-400 through 388-805-840, including a description of each service offered, detailing:~~

~~(a) The number of hours of treatment and education for each certified 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 there is an identified clinical supervisor who:

(a) Is a chemical dependency professional (CDP);

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

(c) Ensures implementation of assessment, treatment, continuing care, transfer and discharge plans in accord with WAC 388-805-315.

(5) Patient admission, continued service, and discharge criteria using PPC((:)).

(6) Policies and procedures to implement the following requirements:

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

(b) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must assess and refer each patient to the appropriate treatment service; and

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

~~((6))~~

(7) Additional requirements for opiate substitution treatment programs:

(a) A program physician must ensure that a person is currently addicted to an opioid drug and that the person became addicted at least one year before admission to treatment;

(b) A program physician must ensure that each patient voluntarily chooses maintenance treatment and provides informed written consent to treatment;

(c) A program physician must ensure that all relevant facts concerning the use of the opioid drug are clearly and adequately explained to the patient;

(d) A person under eighteen years of age needing opiate substitution treatment is required to have had two documented attempts at short-term detoxification or drug-free treatment within a twelve-month period. A waiting period of no less than seven days is required between the first and second short-term detoxification treatment;

(e) No person under eighteen years of age may be admitted to maintenance treatment unless a parent, legal guardian, or responsible adult designated by the relevant state authority consents in writing to treatment;

(f) A program physician may waive the requirement of a one year history of addiction under subsection (7)(a) of this section, for patients released from penal institutions (within six months after release), for pregnant patients (program physician must certify pregnancy), and for previously treated patients (up to two years after discharge);

(g) Documentation in each patient's record that the service provider made a good faith effort to review if the patient is enrolled in any other opiate substitution treatment service;

(h) When the medical director or program physician of an opiate substitution treatment program provider in which the patient is enrolled determines that exceptional circumstances exist, the patient may be granted permission to seek concurrent treatment at another opiate substitution treatment program provider. The justification for finding exceptional circumstances for double enrollment must be documented in the patient's record at both treatment program providers.

(8) 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))~~ (9) HIV/AIDS information, brief risk intervention, and referral.

~~((8))~~ (10) Limitation of group counseling sessions to twelve or fewer patients.

~~((9))~~ (11) Counseling sessions with nine to twelve youths to include a second adult staff member.

~~((10))~~ (12) Provision of education to each patient on:

- (a) Alcohol, other drugs, and chemical dependency;
- (b) Relapse prevention; and
- (c) HIV/AIDS, hepatitis, and TB.

~~((11))~~ (13) 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))~~ (14) 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))~~ (15) Assigning of work to a patient by a CDP when the assignment:

- (a) Is part of the treatment program; and
- (b) Has therapeutic value.

~~((14))~~ (16) Use of self-help groups.

~~((15))~~ (17) Patient rules and responsibilities, including disciplinary sanctions for noncomplying patients.

~~((16))~~ (18) If youth are admitted, a policy and procedure for assessing the need for referral to child welfare services.

~~((17))~~ (19) Implementation of the deferred prosecution program.

~~((18))~~ (20) Policy and procedures for reporting status of persons convicted under chapter 46.61 RCW to the department of licensing.

~~((19))~~ (21) Nonresidential providers must 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 at risk of withdrawal from barbiturates or benzodiazepines; or~~
 - ~~(ii) Used intravenous drugs in the thirty days before admission;~~

~~(d))~~ Laboratory tests, including UA's and drug testing;

~~((e))~~ (d) Services and resources for pregnant women:

(i) A pregnant woman who is not seen by a private physician must 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 must 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 WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-305 What are patients' rights requirements in certified agencies? (1) Each service provider must 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 case 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 their 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 their 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.

(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 established under RCW ~~((18.170-060))~~ 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 must 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 faith-based service provider must ensure the right of patients to receive treatment without religious coercion by ensuring that:

(a) Patients must not be discriminated against when seeking services;

(b) Patients must have the right to decide whether or not to take part in inherently religious activities; and

(c) Patients have the right to receive a referral to another service provider if they object to a religious provider.

(3) A service provider must obtain patient consent for each release of information to any other person or entity. This consent for release of information must 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

(i) A statement prohibiting further disclosure unless expressly permitted by the written consent of the person to whom it pertains.

~~((3))~~ (4) A service provider must 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 must notify an ADATSA recipient of the recipient's additional rights as required by WAC 388-800-0090.

~~((5))~~ (6) The administrator must 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 must post a copy of patients' rights in a conspicuous place in the facility accessible to patients and staff.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-310 What are the requirements for chemical dependency assessments? A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must conduct and document an assessment of each client's involvement with alcohol and other drugs. The CDP's assessment must 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;

(d) A relapse history; and

(e) A legal history.

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

~~(a) Acute intoxication and/or withdrawal risk;~~

~~(b) Biomedical conditions and complications;~~

~~(c) Emotional/behavioral conditions and complications;~~

~~(d) Treatment acceptance/resistance;~~

~~(e) Relapse/continued use potential; and~~

~~(f) Recovery environment)) CDP or CDP trainee under supervision of a CDP must evaluate the assessment using PPC dimensions for the patient placement decision.~~

(3) If an assessment is conducted on a youth, and the client is in need of treatment, the CDP, or CDP trainee under supervision of a CDP, must also obtain the following information:

(a) Parental and sibling use of drugs;

(b) History of school assessments for learning disabilities or other problems, which may affect ability to understand written materials;

(c) Past and present parent/guardian custodial status, including running away and out-of-home placements;

(d) History of emotional or psychological problems;

(e) History of child or adolescent developmental problems; and

(f) Ability of parents/guardians to participate in treatment.

(4) Documentation of the information collected, including:

~~(a) ((A written summary interpreting the data gathered in subsections (1), (2), and (3) of this section including patient strengths and needs for each dimension;~~

~~(b)) A diagnostic assessment statement including ((applicable criteria and severity of involvement with alcohol and other drugs)) sufficient data to determine a patient diagnosis supported by criteria of substance abuse or substance dependence;~~

(b) A written summary of the data gathered in subsections (1), (2), and (3) of this section that supports the treatment recommendation;

(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) Documentation of treatment options provided, and the client's choice; or

(iii) If the client was not notified of the results and advised of referral options, the reason must be documented.

~~(5) ((Documentation of the treatment recommended, using PPC.~~

~~(6))~~ Completion and submission of all reports required by the courts, department of licensing, and department of social and health services in a timely manner.

~~((7))~~ (6) Referral of an adult or minor who requires assessment for involuntary chemical dependency treatment to the county-designated chemical dependency specialist.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-315 What are the requirements for treatment, continuing care, transfer, and discharge plans? (1) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must be responsible for the overall treatment plan for each patient, including:

- (a) Patient involvement in treatment planning;
 - (b) Documentation of progress toward patient attainment of goals; and
 - (c) Completeness of patient records.
- (2) A CDP or a CDP trainee under supervision of a CDP must:

(a) Develop the individualized treatment plan based ~~((on PPC))~~ upon the assessment and update the treatment plan based upon achievement of goals, or when new problems are identified;

(b) Conduct individual and group counseling;

(c) ~~((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 must be documented as well as whether other treatment will be provided;~~

~~(d) Update the treatment plan, and determine continued service needs using PPC;~~

~~(e))~~ (d) Develop the continuing care plan ~~((using PPC));~~ and

~~((f))~~ (d) Complete the discharge summary ~~((using PPC)).~~

(3) A CDP, or CDP trainee under supervision of a CDP, must also include in the treatment plan for youth problems identified in specific youth assessment, including any referrals to school and community support services.

(4) A CDP, or CDP trainee under supervision of a CDP, must 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 CDP, or CDP trainee under supervision of a CDP, must 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 CDP, or a CDP trainee under supervision of a CDP, must:

(a) Update the patient assessment and treatment plan ~~((using PPC));~~ 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) A CDP, or CDP trainee under supervision of a CDP, must meet with each patient at the time of discharge from any treatment agency, unless in detox or when a patient leaves treatment without notice, 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 must 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 ~~((based on using PPC));~~

and

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

(c) Discharge summary; and

(d) The plan for continuing care or treatment.

(9) A CDP, or CDP trainee under supervision of a CDP, must complete a discharge summary, within seven days of each patient's discharge from the agency, which includes:

- (a) The date of discharge or transfer; and
- (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 WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-320 What are the requirements for a patient record system? Each service provider must have a comprehensive patient record system maintained in accord with recognized principles of health record management. The provider must ensure:

(1) A designated individual is responsible for the record system;

(2) A secure storage system which:

(a) Promotes confidentiality of and limits access to both active and inactive records; and

(b) Protects active and inactive files from damage during storage.

(3) Patient record policies and procedures on:

- (a) Who has access to records;
- (b) Content of active and inactive patient records;
- (c) A systematic method of identifying and filing individual patient records so each can be readily retrieved;

(d) Assurance that each patient record is complete and authenticated by the person providing the observation, evaluation, or service;

(e) Retention of patient records for a minimum of ~~((five))~~ six years after the discharge or transfer of the patient; and

(f) Destruction of patient records.

(4) In addition to subsection (1) through (3) of this section, an opiate substitution treatment program provider must ensure that the patient record system comply with all federal and state reporting requirements relevant to opioid drugs approved for use in treatment of opioid addiction.

(5) In addition to subsection (1) through (3) of this section, providers maintaining electronic patient records must:

- (a) Make records available in paper form upon request:
 - (i) For review by the department;
 - (ii) By patients requesting record review as authorized by WAC 388-805-305 (1)(f).

(b) Provide secure, limited access through means that prevent modification or deletion after initial preparation;

(c) Provide for back up of records in the event of equipment, media or human error;

(d) Provide for protection from unauthorized access, including network and Internet access.

~~((5))~~ (6) In case of an agency closure, the provider closing its treatment agency must arrange for the continued management of all patient records. The closing provider must notify the department in writing of the mailing and street address where records will be stored and specify the person managing the records. The closing provider may:

(a) Continue to manage the records and give assurance they will respond to authorized requests for copies of patient records within a reasonable period of time;

(b) Transfer records of patients who have given written consent to another certified provider;

(c) Enter into a qualified service organization agreement with a certified provider to store and manage records, when the outgoing provider will no longer be a chemical dependency treatment provider; or

(d) In the event none of the arrangements listed in (a) through (c) of this subsection can be made, the closing provider must arrange for transfer of patient records to the department.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-325 What are the requirements for patient record content? The service provider must 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 is at risk of withdrawal from barbiturates or benzodiazepines, or used intravenous drugs within thirty days of admission;~~

~~((5))~~ Documentation the patient was informed of federal confidentiality requirements and received a copy of the patient notice required under 42 CFR, Part 2;

~~((6))~~ (5) Documentation the patient was informed of treatment service rules, translated when needed, signed and dated by the patient before beginning treatment;

~~((7))~~ (6) 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, or the department of corrections;

~~((8) Evidence of)~~

(7) Documentation the patient received counselor disclosure information, acknowledged by the provider and patient by signature and date;

~~((9) Evidence of a)~~

(8) Documentation of the patient's tuberculosis test and results;

~~((10) Evidence of)~~

(9) Documentation the patient received the HIV/AIDS brief risk intervention;

~~((11))~~ (10) Initial and updated individual treatment plans, including results of the initial assessment and periodic reviews, addressing:

(a) Patient biopsychosocial problems;

(b) ~~((Short and long term))~~ Treatment goals;

(c) Estimated dates or conditions 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.

~~((12))~~ (11) Documentation of referrals made for specialized care or services;

~~((13))~~ (12) 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 chapter 388-805 WAC; and

(d) Documentation of missed appointments.

~~((14))~~ (13) Medication records, if applicable;

~~((15))~~ (14) Laboratory reports, if applicable;

~~((16))~~ (15) Properly completed authorizations for release of information;

~~((17))~~ (16) Copies of all correspondence related to the patient, including reports of noncompliance;

~~((18))~~ (17) A copy of the continuing care plan signed and dated by the CDP and the patient; and

~~((19))~~ (18) The discharge summary.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-350 What are the requirements for outcomes evaluation? Each service provider must develop and implement policies and procedures for outcomes evaluation, to monitor and evaluate ~~((outcomes for the purpose of))~~ program effectiveness and patient satisfaction for the purpose of program improvement. ~~((Outcomes evaluation includes:~~

~~((1) A program description of:~~

~~((a) Measurable program objectives in the areas of effectiveness, efficiency, and patient satisfaction;~~

~~((b) Baseline measurement of program objectives; and measurement of outcomes at least two of the following times:~~

~~((i) During treatment, or~~

~~((ii) At discharge, or~~

- ~~(iii) After treatment;~~
- ~~(2) Use of the results;~~
- ~~(3) Measurement of a representative sample of patients served by the treatment provider.))~~

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-400 What are the requirements for detoxification providers? Detoxification services include acute and subacute services. To be certified to offer detoxification services, a provider must:

- (1) Meet WAC 388-805-001 through 388-805-320, 388-805-330, and 388-805-350 requirements; and
- (2) Meet relevant requirements of chapter ~~((246-326))~~ 246-337 WAC.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-410 What are the requirements for detox staffing and services? (1) The service provider must ensure staffing as follows:

- (a) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, ~~((must))~~ to assess, counsel, and attempt to motivate each patient for referral;
- (b) Other staff as necessary to provide services needed by each patient;
- (c) All personnel providing patient care, except licensed staff and CDPs, must complete a minimum of forty hours of documented training before assignment of patient care duties. The personnel training must include:
 - (i) Chemical dependency;
 - (ii) HIV/AIDS and hepatitis B education;
 - (iii) TB prevention and control; and
 - (iv) Detox screening, admission, and signs of trauma.
- (d) All personnel providing patient care must have current training in:
 - (i) Cardio-pulmonary resuscitation (CPR); and
 - (ii) First aid.
- (2) The service provider must ensure detoxification services include:

(a) ~~((Screening of each person before admission by a person knowledgeable about alcoholism and other addictions and skilled in observation and eliciting information))~~ A staff member who demonstrates knowledge about addiction, and is skilled in observation and eliciting information, will perform a screening of each person prior to admission;

(b) ~~((A chemical dependency assessment, which must be attempted within forty-eight hours of a patient's admission;~~

~~((e)))~~ Counseling of each patient by a CDP, or CDP trainee under supervision of a CDP, at least once:

- (i) Regarding the patient's chemical dependency; and
 - (ii) Attempting to motivate each person to accept referral into a continuum of care for chemical dependency treatment.
- ~~((d)))~~ (c) Sleeping arrangements that permit observation of patients;
- ~~((e)))~~ (d) Separate sleeping rooms for youth and adults; and

~~((f)))~~ (e) Referral of each patient to other appropriate treatment services.

(3) The service provider must ensure detoxification patient records include:

(a) Demographic information;

(b) Documentation the patient was informed of federal confidentiality requirements and received a copy of the patient notice required under 42 CFR, Part 2;

(c) Documentation the patient was informed of treatment service rules, translated when needed, signed and dated by the patient before beginning treatment;

(d) 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;

(e) Documentation the patient receive counselor disclosure information, acknowledged by the provider and patient by signature and date;

(f) Documentation of the patient's tuberculosis test and results;

(g) Documentation the patient received the HIV/AIDS brief risk intervention;

(h) Progress notes each shift and as events occur;

(i) Medication records, if applicable;

(j) Laboratory reports, if applicable;

(k) Properly completed authorizations for release of information; and

(l) The discharge summary, which includes the patient's physical condition.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-500 What are the requirements for residential providers? To be certified to offer intensive inpatient, recovery, or long-term residential services, a provider must meet the requirements of:

- (1) WAC 388-805-001 through 388-805-350;
- (2) WAC 388-805-510 through 388-805-550 as applicable; and
- (3) Chapter ~~((246-326))~~ 246-337 WAC as required for department of health licensing.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-520 What are the requirements for youth behavior management? (1) Upon application for a youth's admission, a service provider must:

(a) Advise the youth's parent and other referring persons of the programmatic and physical plant capabilities and constraints in regard to providing treatment with or without a youth's consent;

(b) Obtain the parent's or other referring person's agreement to participate in the treatment process as appropriate and possible; and

(c) Obtain the parent's or other referring person's agreement to return and take custody of the youth as necessary and appropriate on discharge or transfer.

(2) The administrator must ensure policies and procedures are written and implemented which detail least to

increasingly restrictive practices used by the provider to stabilize and protect youth who are a danger to self or others, including:

(a) Obtaining signed behavioral contracts from the youth, at admission and updated as necessary;

(b) Acknowledging positive behavior and fostering dignity and self respect;

(c) Supporting self-control and the rights of others;

(d) Increased individual counseling;

(e) Increased staff monitoring;

(f) Verbal de-escalation;

(g) Use of unlocked room for voluntary containment or ~~((seclusion))~~ time-out;

(h) Use of ~~((restraints))~~ therapeutic physical intervention techniques during a time limited immediate crisis to prevent or limit free body movement that may cause harm to the person or others; and

(i) Emergency procedures, including notification of the parent, guardian or other referring person, and, when appropriate, law enforcement.

(3) The provider must ensure staff is trained in safe and therapeutic techniques for dealing with a youth's behavioral and emotional crises, including:

(a) Verbal de-escalation;

(b) Crisis intervention;

(c) Anger management;

(d) Suicide assessment and intervention;

(e) Conflict management and problem solving skills;

(f) Management of assaultive behavior;

(g) Proper use of ~~((restraint))~~ therapeutic physical intervention techniques; and

(h) Emergency procedures.

(4) To ~~((prevent))~~ reduce the possibility of a youth's unauthorized exit from the residential treatment site, the provider may have:

(a) An unlocked room for voluntary containment or ~~((seclusion))~~ time-out;

(b) A secure perimeter, such as a nonscalable fence with locked gates; and

(c) Locked windows and exterior doors.

(5) Providers using holding mechanisms in subsection (4) of this section must meet current Uniform Building Code requirements, which include fire safety and special egress control devices, such as alarms and automatic releases.

(6) When less restrictive measures are not sufficient to de-escalate a behavioral crisis, clinical staff may ~~((contain or seclude))~~ use, for voluntary containment or time-out of a youth, a quiet unlocked room which has a window for observation and:

(a) The clinical supervisor or designated alternate must be notified immediately of the staff person's use of a quiet room for a youth, and must determine its appropriateness;

(b) A chemical dependency professional (CDP) or designated clinical alternate must consult with the youth immediately and at least every ten minutes, for counseling, assistance, and to maintain direct communication; and

(c) The clinical supervisor or designated alternate must evaluate the youth and determine the need for mental health consultation.

(7) Youth who demonstrate continuing refusal to participate in treatment or continuing to exhibit behaviors that present health and safety risks to self, other patients, or staff may be discharged or transferred to more appropriate care after:

(a) Interventions appropriate to the situation from those listed in subsection (2) of this section have been attempted without success;

(b) The person has been informed of the consequences and return options;

(c) The parents, guardian, or other referring person has been notified of the emergency and need to transfer or discharge the person; and

(d) Arrangements are made for the physical transfer of the person into the custody of the youth's parent, guardian, or other appropriate person or program.

(8) Involved staff must document the circumstances surrounding each incident requiring intervention in the youth's record and include:

(a) The precipitating circumstances;

(b) Measures taken to resolve the incident;

(c) Final resolution; and

(d) Record of notification of appropriate others.

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 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-530 What are the requirements for intensive inpatient services? (1) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must:

(a) Complete the initial treatment plan within five days of admission;

(b) Conduct at least one face-to-face individual chemical dependency counseling session with each patient each week;

(c) Provide a minimum of ten hours of chemical dependency counseling with each patient each week;

(d) Document a treatment plan review, at least weekly, which updates patient status, progress toward goals ~~((, and PPC level of service))~~; and

(e) Refer each patient for ongoing treatment or support, as necessary, upon completion of treatment.

(2) The provider must ensure a minimum of twenty hours of treatment services for each patient each week; up to ten hours may be education.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-540 What are the requirements for recovery house services? (1) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must provide a minimum of five hours of treatment, for each patient each week, consisting of:

(a) Education regarding drug-free and sober living; and

(b) Individual or group counseling.

(2) A CDP, or CDP trainee under supervision of a CDP, must (~~update patient records~~) document a treatment plan review at least monthly; and

(3) Staff must assist patients with general reentry living skills and, for youth, continuation of educational or vocational training.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-550 What are the requirements for long-term treatment services? Each chemical dependency service provider must ensure each patient receives:

(1) Education regarding alcohol, other drugs, and other addictions, at least two hours each week.

(2) Individual or group counseling by a chemical dependency professional (CDP), or CDP trainee under supervision of a CDP, a minimum of two hours each week.

(3) Education on social and coping skills.

(4) Social and recreational activities.

(5) Assistance in seeking employment, when appropriate.

(6) (~~(Patient record)~~) Document a treatment plan review (~~(and update)~~) at least monthly.

(7) Assistance with re-entry living skills.

(8) A living arrangement plan.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-600 What are the requirements for outpatient providers? To be certified to provide intensive or other outpatient services, a chemical dependency service provider must meet the requirements of:

(1) WAC 388-805-001 through 388-805-350;

(2) WAC 388-805-610 through 388-805-630, as applicable; and

(3) WAC 388-805-700 through 388-805-750, if offering opiate substitution treatment program services.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-610 What are the requirements for intensive outpatient treatment services? (1) Patients admitted to intensive outpatient treatment under a deferred prosecution order pursuant to chapter 10.05 RCW, must complete intensive treatment as described in subsection (2) of this section. Any exceptions to this requirement must be approved, in writing, by the court having jurisdiction in the case.

(2) Each chemical dependency service provider must ensure intensive outpatient services are designed to deliver:

(a) A minimum of seventy-two hours of treatment services within a maximum of twelve weeks,

(b) The first four weeks of treatment must consist of:

(i) At least three sessions each week;

(ii) Each group session must last at least one hour; and

(iii) Each session must be on separate days of the week.

(c) Individual chemical dependency counseling sessions with each patient (~~(every twenty hours of treatment)~~) at least once a month, or more if clinically indicated;

(d) Education totaling not more than fifty percent of (~~(the)~~) patient treatment services regarding alcohol, other drugs, relapse prevention, HIV/AIDS, hepatitis B, hepatitis C, and TB prevention, and other air/blood-borne pathogens;

(e) Self-help group attendance in addition to the seventy-two hours;

(f) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must conduct and document a review of each patient's treatment plan (~~(every twenty hours of treatment)~~) in individual chemical dependency counseling sessions, if appropriate, to assess adequacy and attainment of goals(~~(, using PPC)~~);

(g) Upon completion of intensive outpatient treatment, a CDP, or a CDP trainee under the supervision of a CDP, must refer each patient for ongoing treatment or support, as necessary(~~(, using PPC)~~).

~~(3) Patients not under deferred prosecution orders, including youth patients, may be admitted to levels of care as determined appropriate using PPC).~~

NEW SECTION

WAC 388-805-625 What are the requirements for outpatient services for persons subject to RCW 46.61.5056? (1) Patients admitted to outpatient treatment subject to RCW 46.61.5056, must complete outpatient treatment as described in subsection (2) of this section.

(2) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must:

(a) For the first sixty days of treatment:

(i) Conduct group or individual chemical dependency counseling sessions for each patient, each week, according to an individual treatment plan.

(ii) Conduct at least one individual chemical dependency counseling session of no less than thirty minutes duration excluding a chemical dependency assessment for each patient, according to an individual treatment plan.

(iii) Conduct alcohol and drug basic education for each patient.

(iv) Document patient participation in self-help groups described in WAC 388-805-300(16) for patients with a diagnosis of substance dependence.

(v) For patients with a diagnosis of substance dependence who received intensive inpatient chemical dependency treatment services, the balance of the sixty-day time period will consist, at a minimum, of weekly outpatient counseling sessions according to an individual treatment plan.

(b) For the next one hundred twenty days of treatment:

(i) Conduct group or individual chemical dependency counseling sessions for each patient, every two weeks, according to an individual treatment plan.

(ii) Conduct at least one individual chemical dependency counseling session of no less than thirty minutes duration every sixty days for each patient, according to an individual treatment plan.

(c) Upon completion of one hundred eighty days of intensive treatment, a CDP, or a CDP trainee under the supervision of a CDP, must refer each patient for ongoing treatment or support, as necessary, using PPC.

(3) For clients that are assessed with insufficient evidence of substance dependence or substance abuse, a CDP must refer the client to alcohol/drug information school.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-700 What are the requirements for opiate substitution treatment program providers? An opiate substitution treatment program provider must meet requirements of:

- (1) WAC 388-805-001 through 388-805-350;
- (2) WAC (~~388-805-610 and~~) 388-805-620; ~~and~~
- (3) WAC 388-805-700 through 388-805-750; ~~and~~
- (4) 42 Code of Federal Regulations, Part 8.12.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-710 What are the requirements for opiate substitution medical management? (1) The medical director must assume responsibility for administering all medical services performed by the opiate substitution treatment program.

(2) The medical director must be responsible for ensuring that the opiate substitution treatment program is in compliance with all applicable federal, state, and local laws and regulations.

(3) A program physician or authorized health care professional under supervision of a program physician, must provide oversight for determination of opiate physical addiction and conducting a complete, fully documented physical evaluation for each patient before admission (~~unless the patient is exempted by the Federal Food and Drug Administration, and:~~

(a) ~~Be available for consultation when an opiate physical addiction determination is conducted by anyone other than the program physician; and~~

(b) ~~Conduct the opiate physical addiction determination for all youth patients.~~

~~(2))~~.

(4) A physical examination must be conducted on each patient:

(a) By a program physician or other medical practitioner; and

(b) Within (~~twenty-one~~) fourteen days of admission.

~~((3))~~ (5) Following the patient's initial dose of opiate substitution treatment, the physician must establish adequacy of dose, considering:

(a) Signs and symptoms of withdrawal;

(b) Patient comfort; and

(c) Side effects from over medication.

~~((4) At the appropriate time))~~

(6) Prior to the beginning of detox, a program physician must approve an individual detoxification schedule for each patient being detoxified.

NEW SECTION

WAC 388-805-715 What are the requirements for opiate substitution medication management? (1) An opiate substitution treatment program must use only those opioid agonist treatment medications that are approved by the Food and Drug Administration under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opioid addiction.

(2) In addition, an opiate substitution treatment program who is fully compliant with the protocol of an investigational use of a drug and other conditions set forth in the application may administer a drug that has been authorized by the Food and Drug Administration under an investigational new drug application under section 505(i) of the Federal Food, Drug, and Cosmetic Act for investigational use in the treatment of opioid addiction. Currently the following opioid agonist treatment medications will be considered to be approved by the Food and Drug Administration for use in the treatment of opioid addiction:

(a) Methadone;

(b) Levomethadyl acetate (LAAM); and

(c) Buprenorphine distributed as Subutex and suboxone.

(3) An opiate substitution treatment program must maintain current procedures that are adequate to ensure that the following dosage form and initial dosing requirements are met:

(a) Methadone must be administered or dispensed only in oral form and must be formulated in such a way as to reduce its potential for parenteral abuse;

(b) For each new patient enrolled in a program, the initial dose of methadone must not exceed thirty milligrams and the total dose for the first day must not exceed forty milligrams, unless the program physician documents in the patient's record that forty milligrams did not suppress opiate abstinence symptoms.

(4) An opiate substitution treatment program must maintain current procedures adequate to ensure that each opioid agonist treatment medication used by the program is administered and dispensed in accordance with its approved product labeling. Dosing and administration decisions must be made by a program physician familiar with the most up-to-date product labeling. These procedures must ensure that any significant deviations from the approved labeling, including deviations with regard to dose, frequency, or the conditions of use described in the approved labeling, are specifically documented in the patient's record.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-720 What are the requirements for (~~urinalysis~~) drug testing in opiate substitution treatment? (1) The provider must obtain a (~~urine~~) specimen sample from each patient for (~~urinalysis~~) drug testing:

(a) At least (~~once each month~~) eight times per year; and

(b) Randomly, without notice to the patient.

(2) Staff must observe the collection of each (~~urine~~) specimen sample and use proper chain of custody techniques when handling each sample;

(3) When a patient refuses to provide a ((urine)) specimen sample or initial the log of sample numbers, staff must consider the ((urine)) specimen positive; and

(4) Staff must document a positive ((urine)) specimen and discuss the findings with the patient ((in a)) at the next scheduled counseling session ((within seven days of receiving the results of the test)).

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-730 What are the requirements for opiate substitution treatment dispensaries? (1) Each opiate substitution treatment provider must comply with applicable portions of 21 CFR, Part 1301 requirements, as now or later amended.

(2) The administrator must ensure written policies and procedures to verify the identity of patients.

(3) Dispensary staff must maintain a file with a photograph of each patient. Dispensary staff must ensure pictures are updated when:

(a) The patient's physical appearance changes significantly; or

(b) Every two years, whichever comes first.

(4) In addition to notifying the ((Food and)) Federal CSAT, SAMHSA and the Federal Drug Enforcement Administration, the administrator must immediately notify the department and the state board of pharmacy of any theft or significant loss of a controlled substance.

(5) The administrator must have a written diversion control plan that contains specific measures to reduce the possibility of diversion of controlled substances from legitimate treatment use and that assigns specific responsibility to the medical and administrative staff members for carrying out the diversion control measures and functions described in the plan.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-740 What are the requirements for opiate substitution treatment counseling? (1) A chemical dependency professional (CDP), or a CDP trainee under supervision of a CDP, must provide individual or group counseling sessions once each:

(a) Week, for the first ninety days, for a new patient or a patient readmitted more than ninety days since the person's most recent discharge from opiate substitution treatment;

(b) Week, for the first month, for a patient readmitted within ninety days of the most recent discharge from opiate substitution treatment; and

(c) Month, for a patient transferring from another opiate substitution treatment ((agency)) program where the patient stayed for ninety or more days.

(2) A CDP, or a CDP trainee under supervision of a CDP, must conduct and document a continuing care review with each patient to review progress, discuss facts, and determine the need for continuing opiate substitution treatment:

- (a) Between six and seven months after admission; and
- (b) Once every six months thereafter.

(3) A CDP, or a CDP trainee under supervision of a CDP, must provide counseling in a location that is physically separate from other activities.

~~(4) ((The administrator must ensure at least one full-time CDP, or a CDP trainee under supervision of a CDP, for each fifty patients:~~

~~(a) A CDP with one or more CDP trainees may be assigned as primary counselor for up to seventy five patients, including those assigned to the CDP trainee; and~~

~~(b) A CDP trainee may be assigned up to thirty five patients.~~

~~(5))~~ (5) A pregnant woman and any other patient who requests, must receive at least one-half hour of counseling and education each month on:

(a) Matters relating to pregnancy and street drugs;

(b) Pregnancy spacing and planning; and

(c) The effects of opiate substitution treatment on the woman and fetus, when opiate substitution treatment occurs during pregnancy.

~~((6))~~ (6) Staff must provide at least one-half hour of counseling on family planning with each patient through either individual or group counseling.

~~((7))~~ (7) (6) The administrator must ensure there is one staff member who has training in family planning, prenatal health care, and parenting skills.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-750 What are the requirements for opiate substitution treatment take-home medications? (1) An opiate substitution treatment provider may authorize take-home medications for a patient when:

(a) The medication is for a Sunday or legal holiday, as identified under RCW 1.16.050; or

(b) Travel to the facility presents a safety risk for patients or staff due to inclement weather.

(2) A service provider may permit take-home medications on other days for a stabilized patient who:

(a) Has received opiate substitution treatment medication for a minimum of ninety days; and

(b) Had negative urines for the last sixty days.

(3) The provider must meet ~~((21))~~ 42 CFR, Part ~~((291))~~ 8.12(i)(1-5) requirements.

(4) The provider may arrange for opiate substitution treatment medication to be administered by licensed staff or self-administered by a pregnant woman receiving treatment at a certified residential treatment agency when:

(a) The woman had been receiving treatment medication for ninety or more days; and

(b) The woman's use of treatment medication can be supervised.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-800 What are the requirements for ((free-standing)) ADATSA assessment ((providers and)) services? (1) ((A)) An agency certified to conduct ADATSA

~~((assessment provider))~~ assessments must conduct ~~((an ADATSA))~~ the assessment for each eligible patient and be governed by the requirements under:

- (a) WAC 388-805-001 through 388-805-310;
- (b) WAC 388-805-020 and 388-805-325 (1), (2), (3), ~~((5), (10), (16), (17))~~ (4), (9), (15), (16), 388-805-330; and 388-805-350; and
- (c) Chapter 388-800 WAC.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-810 What are the requirements for DUI assessment providers? (1) If located in a district or municipal probation department, each DUI service provider must meet the requirements of:

- (a) WAC 388-805-001 through 388-805-135,
 - (b) WAC 388-805-145 (4), (5), and (6);
 - (c) WAC 388-805-150, the administrative manual, subsections (4), (7) through (11), (13), and (14);
 - (d) WAC 388-805-155, facilities, subsections (1)(b), (c), (d), and (2)(b);
 - (e) WAC 388-805-200 (1), (4), and (5);
 - (f) WAC 388-805-205 (1), (2), (3)(a) through ~~((e))~~ (d), (4), (6), and (7)~~((and (8)))~~;
 - (g) WAC 388-805-220, 388-805-225, and 388-805-230;
 - (h) WAC 388-805-260, volunteers;
 - (i) WAC 388-805-300, clinical manual, subsections (1), (2), (3), ~~((7), (14), (18))~~ (9), and ~~((19))~~ (20)(e);
 - (j) WAC 388-805-305, patients' rights;
 - (k) WAC 388-805-310, assessments;
 - (l) WAC 388-805-320, patient record system, subsections (3)(a) through (f), and ~~((4))~~(5);
 - (m) WAC 388-805-325, record content, subsections (1), (2), (3), ~~((5), (8), (10), (12), (16))~~ (4), (7), (9), (11), (15), and (17); and
 - (n) WAC 388-805-350, outcomes evaluation;
 - (o) WAC 388-805-815, DUI assessment services.
- (2) If located in another certified chemical dependency treatment facility, the DUI service provider must meet the requirements of:
- (a) WAC 388-805-001 through 388-805-260; 388-805-305 and 388-805-310;
 - (b) WAC 388-805-300, 388-805-320, 388-805-325 as noted in subsection (1) of this section, 388-805-350; and
 - (c) WAC 388-805-815.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-820 What are the requirements for alcohol and other drug information school? (1) Alcohol and other drug information school providers must be governed under:

- (a) WAC 388-805-001 through 388-805-135; and
 - (b) This section.
- (2) The provider must:
- (a) Inform each student of fees at the time of enrollment; and

(b) Ensure adequate and comfortable seating in well-lit and ventilated rooms.

(3) A certified information school instructor or a chemical dependency professional must teach the course and:

- (a) Advise each student there is no assumption the student is an alcoholic or drug addict, and this is not a therapy session;
- (b) Discuss the class rules;
- (c) Review the course objectives;
- (d) Follow curriculum contained in "Alcohol and Other Drugs Information School Training Curriculum," published in ~~((1994))~~ 2001, or later amended;
- (e) Ensure not less than eight and not more than fifteen hours of class room instruction;
- (f) Administer the post-test from the above reference to each enrolled student after the course is completed;
- (g) Ensure individual client records include:
 - (i) Intake form;
 - (ii) Hours and date or dates in attendance;
 - (iii) Source of referral;
 - (iv) Copies of all reports, letters, certificates, and other correspondence;
 - (v) A record of any referrals made; and
 - (vi) A copy of the scored post-test.
- (h) Complete and submit reports required by the courts and the department of licensing, in a timely manner.

AMENDATORY SECTION (Amending WSR 00-23-107, filed 11/21/00, effective 1/1/01)

WAC 388-805-850 What are the requirements for treatment ~~((alternatives to street crime))~~ accountability for safer communities (TASC) providers and services? (1)

A certified TASC provider must provide referral and case management services to each eligible patient and meet the requirements of:

- (a) WAC 388-805-001 through 388-805-210;
- (b) WAC 388-805-240, students;
- (c) WAC 388-805-260, volunteers;
- (d) WAC 388-805-300, clinical manual, subsections (1) through ~~((7), (13))~~ (6), (9) through ~~((18))~~ (15), and ~~((19))~~ (21)(a), (b), ~~((d))~~ and (e)~~((and (f)))~~;
- (e) WAC 388-805-305, patients' rights, subsections (1) ~~((through (3), and (5) through (6)))~~ (3), (4), (6), and (7);
- (f) WAC 388-805-310, assessments, subsections (1) through ~~((7))~~ (6);
- (g) WAC 388-805-315, treatment, continuing care, transfer, and discharge plans, subsections (1), (2)(a), (c), (d), ~~((e), and (f))~~ (5), and (7) through (9);
 - (i) A CDP, or a CDP trainee under supervision of a CDP, must substitute referral and case management plans for treatment plan requirements in WAC 388-805-315 (1) and (2)(a) ~~((d))~~;
 - (ii) A CDP, or a CDP trainee under supervision of a CDP, must coordinate the referral of patients with the appropriate treatment provider for each identified problem, ensure they receive adequate treatment, and add new problems to the case management plan as they are identified;

(iii) A CDP, or a CDP trainee under supervision of a CDP, must coordinate the continuing care plan of the patient with appropriate treatment providers; and,

(iv) When transferring a patient to another treatment provider, a TASC provider will substitute a summary of the patient's progress toward each referral and case management goal.

(h) WAC 388-805-320, patient record system;

(i) WAC 388-805-325, patient record content, subsections (1) through ~~((3))~~ (4), (5) through ~~((10))~~ (9), and ~~((12))~~ (11) through ~~((19))~~ (18);

(j) WAC 388-805-330, reporting patient noncompliance; and

(k) WAC 388-805-350, outcomes evaluation.

(2) A CDP, or a CDP trainee under supervision of a CDP, must assess and document the adequacy of each client's referral and case management plan and attainment of goals once each month.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-805-900	What are the requirements for outpatient child care when a parent is in treatment?
WAC 388-805-905	What are the requirements for outpatient child care admission and health history?
WAC 388-805-910	What are the requirements for outpatient child care policies?
WAC 388-805-915	What are the requirements for an outpatient child care activity program?
WAC 388-805-920	What are the requirements for outpatient child care behavior management and discipline?
WAC 388-805-925	What are the requirements for outpatient child care diaper changing?
WAC 388-805-930	What are the requirements for outpatient child care food service?
WAC 388-805-935	What are the staffing requirements for outpatient child care services?

WSR 03-13-081
PROPOSED RULES
COMMUNITY COLLEGES
OF SPOKANE

[Filed June 16, 2003, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-094.

Title of Rule: Adopt new chapter 132Q-02 WAC.

Purpose: New sections WAC 132Q-02-010 Definitions, 132Q-02-020 Purpose for adoption of student rules, 132Q-02-030 Jurisdiction, 132Q-02-040 Student misconduct, 132Q-02-050 Academic dishonesty, 132Q-02-060 Classroom conduct/learning environment, 132Q-02-070 Authority to suspend, 132Q-02-080 Conduct at college functions, 132Q-02-090 Other punishable acts, 132Q-02-100 Hazing, 132Q-02-110 Disciplinary actions, 132Q-02-120 Delegation of disciplinary authority, 132Q-02-130 Due process, 132Q-02-140 Initiation of disciplinary action, 132Q-02-150 Composition of college disciplinary committee, 132Q-02-160 Evidence admissible in proceedings, 132Q-02-170 Appeal of disciplinary actions, 132Q-02-180 Reporting, recording and maintenance of disciplinary records, 132Q-02-190 College disciplinary committee proceedings, 132Q-02-200 Brief disciplinary proceedings, 132Q-02-210 Conduct at disciplinary proceedings, 132Q-02-220 Decision of the college disciplinary committee, 132Q-02-230 Final decision regarding appeal of disciplinary committee action, 132Q-02-240 Readmission after suspension, 132Q-02-250 Emergency authority of campus president, 132Q-02-260 Purpose of immediate summary suspension rules, 132Q-02-270 Initiation of immediate summary suspension proceedings, 132Q-02-280 Notice of immediate summary suspension proceedings, 132Q-02-290 Procedures of immediate summary suspension proceedings, 132Q-02-300 Decision by vice president, 132Q-02-310 Notice of immediate summary suspension, 132Q-02-320 Failure to appear, 132Q-02-330 Appeal of immediate summary suspension, 132Q-02-340 Immediate summary suspension proceedings not duplicative, 132Q-02-350 Confidentiality of student records, 132Q-02-360 Education records, 132Q-02-370 Records requests and appeals, 132Q-02-380 Release of personally-identifiable records, 132Q-02-390 College records, 132Q-02-400 Records committee, 132Q-02-410 Eligibility for clinical programs, 132Q-02-420 Grounds for athletic ineligibility, 132Q-02-430 Right to brief adjudicative procedure—Athletics, 132Q-02-440 Brief adjudicative procedure—Athletics, and 132Q-02-450 Brief adjudicative decision—Athletics, to consolidate student rules into one chapter.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: None.

Summary: To update district rules regulating student conduct, suspension and dismissal procedures.

Reasons Supporting Proposal: To improve district efficiency.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Connie Stafford Sherman, 501 North Riverpoint Boulevard, P.O. Box 6000, (509) 434-5060.

Name of Proponent: Community Colleges of Spokane, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed changes primarily are for housekeeping purposes and district efficiency. Rules repealed are now consolidated in student rights and responsibilities and general campus conduct chapters to create ease of reading and understanding. Various other changes include updating terminology and procedural changes.

Proposal does not change existing rules. The proposal changes do not affect any current rule in substantive manner. Changes are primarily for housekeeping purposes and clarification.

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

RCW 34.05.328 does not apply to this rule adoption. Rules are primarily for internal district operation and are not subject to violation by a nongovernment party.

Hearing Location: 2000 North Greene Street, Spokane, WA 99217, on August 19, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Connie Stafford Sherman by August 8, 2003.

Submit Written Comments to: Connie Stafford Sherman, 501 North Riverpoint Boulevard, P.O. Box 6000, Mailstop 1002, Spokane, WA 99217-6000, fax (509) 434-5025, by August 8, 2003.

Date of Intended Adoption: August 19, 2003.

June 12, 2003

Connie Stafford Sherman
Vice Chancellor
Systems Administration

NEW SECTION

WAC 132Q-02-010 Definitions. As used in this chapter, the following words and phrases shall mean:

(1) **Appropriate Vice President** - The chief administrative officer over student services regardless of position title.

(2) **Assembly** - Any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or group of persons.

(3) **Board** - The board of trustees of Washington State Community College District 17, also known as Community Colleges of Spokane (CCS).

(4) **Chancellor** - Chief Executive officer over Community Colleges of Spokane.

(5) **College** - Any community college or center, which may be created by the board of trustees of Community Colleges of Spokane.

(6) **College facilities** - Any or all real property owned, operated, or maintained by the board of trustees of Community Colleges of Spokane, and shall include all buildings and appurtenances affixed thereon or attached thereto.

(7) **College personnel** - Any person employed or representing, on a full-time or part-time basis Community Colleges of Spokane.

(8) **Disciplinary action** - The expulsion, suspension or admonition of any student by the appropriate college president or vice president for the violation of any designated rule of student conduct for which a student is subject to disciplinary action.

(9) **District** - Washington State Community College District 17, also known as Community Colleges of Spokane (CCS).

(10) **Hazing** - Any method of initiation into a student organization, group or pastime or amusement engaged in with respect to such an organization or group that causes or is likely to cause bodily harm or serious mental or emotional harm to any student or other person attending any institution of higher education or post-secondary institution. Excluded from this definition are "customary athletic events or other similar contests or competitions."

(11) **Immediate Summary Suspension** - Immediate suspension from the college due to student presenting imminent danger to himself/herself or other persons on college facilities or to the educational process of the college.

(12) **Instructional Day** - Any regularly scheduled instructional day designated in the academic year calendar, including summer quarter, as a day when classes are held or during final examination week. Saturdays and Sundays are not regularly scheduled instructional days.

(13) **Others** - Any person other than a student or college personnel visiting, attending or speaking within the college community.

(14) **Personally-Identifiable Information** - Information which includes either (a) the name of the student; the student's parent, or other family member(s), (b) the address of the student's or student's family, (c) a personal identifier such as the student's social security number or student identification number, (d) a list of personal characteristics which would make it possible to identify the student with reasonable certainty, or (e) other information which would make it possible to identify the student with reasonable certainty.

(15) **President** - Unless otherwise designated shall mean the duly appointed president, chief executive of any college, instructional unit of Community Colleges of Spokane.

(16) **RCW** - The Revised Code of Washington.

(17) **Student** - Any person who is or has been officially registered at any college or instructional unit with Community Colleges of Spokane and with respect to whom the college maintains educational records or personally-identifiable information.

(18) **Student Rights and Responsibilities** - Rules regulating student conduct as adopted in this chapter.

(19) **WAC** - The Washington Administrative Code.

NEW SECTION

WAC 132Q-02-020 Purpose for adoption of student rules. (1) All colleges administered by the board of trustees for Community Colleges of Spokane are maintained by the state of Washington for the accomplishment of certain special purposes; namely, the provision of programs of instruction in higher education, the advancement of knowledge through scholarship and research, and the provision of related

community services. Like any other social institution having its own special purpose, a college must maintain conditions conducive to the effective performance of its functions. Consequently, the college has special expectations regarding the conduct of the various participants in the academic community. Student conduct, which distracts from or interferes with accomplishment of college purposes, is not acceptable.

(2) Admission to a college within the district carries with it the presumption that students will conduct themselves as responsible members of the academic community. This includes an expectation that students will obey the law, comply with rules and regulations of the college and its departments, maintain a high standard of integrity and honesty and respect the rights, privileges and property of other members of the college community.

(3) It is assumed that students are and wish to be treated as adults. As such, students will accept responsibility for their conduct. In order to accomplish educational purposes of the college and also to provide students a full understanding of the rules that will enable the college to maintain conditions conducive to the effective performance of the college's functions, the following rules regarding the conduct of students are hereby adopted. Sanctions for violations of the rules of student conduct herein adopted will be administered by the college in the manner provided by said rules. When violations of laws of the state of Washington and/or the United States are also involved, the college may refer such matters to proper civil authorities. In case of minors, this conduct may be referred to parents or legal guardians.

NEW SECTION

WAC 132Q-02-030 Jurisdiction. All rules herein adopted concerning student conduct and discipline shall apply to every student attending a community college within Community Colleges of Spokane whenever said student is engaged in or present at any approved college-related activity occurring on or off college facilities. Facilities includes locations in which students are engaged in official college activities such as training internships, cooperative and distance education, practicums, supervised work experiences or any other college-sanctioned social or club activities.

NEW SECTION

WAC 132Q-02-040 Student misconduct. Misconduct for which the campuses may impose sanctions and/or disciplinary action includes, but is not limited to, any of the following:

(1) The intentional or repeated obstruction or disruption of teaching, research, administration, disciplinary proceedings or other campus activities, including public service function and other authorized activities on campus premises;

(2) Academic dishonesty, as described in WAC 132Q-02-050, to include cheating, plagiarism, or knowingly furnishing false information to any campus or district employee;

(3) Failure to comply with the direction of campus officials acting in the legitimate performance of their duties or failure to properly identify oneself to those persons when requested to do so;

(4) Intentional physical or verbal abuse, threats, intimidation, harassment, coercion and/or other conduct, including disorderly, lewd or indecent behavior directed at another person which has the purpose or effect of creating a hostile, intimidating or disruptive learning or working environment at any campus-sponsored or campus-supervised function;

(5) Violating any of the computer and electronic information, including internet access systems use policies, rules, regulations, guidelines and laws applicable to the district, college or department of the college which include prohibitions against use for commercial benefit or gain and department restrictions prohibiting access into sexually explicit internet sites;

(6) Engaging in any behavior which threatens and/or endangers the health or safety of any person on campus premises, presents an imminent danger to him or herself, another or the college community, disrupts the normal operations of the college and/or infringes on the rights of other members of the college community;

(7) Aiding, abetting or procuring another person in behavior that is prohibited by any section of the Student Misconduct;

(8) Engaging in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature where such behavior offends a reasonable, orderly, prudent person under these circumstances;

(9) Smoking and/or the use of chewing tobacco inside campus buildings and campus vehicles or in other unauthorized campus areas;

(10) Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of the regulation, "sale" shall include the statutory meaning defined in RCW 69.50.410 and RCW 69.04.005;

(11) Using, possessing, consuming or being demonstrably under the influence of, or selling any alcoholic beverage, except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his/her designee;

(12) The intentional making of false statements and/or filing of false charges against the colleges and/or members of the district community;

(13) Forgery, alteration or misuse of district documents, records, funds or instruments of identification, including electronic hardware, software and information systems and applications with the intent to defraud;

(14) Theft of or attempted or actual damage to property of the college, a member of the college community, other personal or public property, or possession of property stolen from college premises and/or a member of the college community while on college premises;

(15) Unauthorized use of, access to, or entry of college facilities or property, tangible or intangible, or any violation of college rules regarding such use, access or entry;

(16) Engaging in any prohibited discriminatory or harassing behavior as defined by applicable law and/or district policies including stalking or hate activity as defined by law;

(17) Conducting or participating in an assembly, which violates the guidelines of assembly as defined in WAC 132Q-07-020 of this administrative code;

(18) Hazing in any form as described in RCW 28B.10.901. No student, or other person in attendance at any public or private institution of higher education, or any other postsecondary educational institution, may conspire to engage in hazing or participate in hazing of another. Any method of initiation into a student organization, pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause bodily or serious mental or emotional harm to any student or other person. Excluded from this definition are "customary athletic events or other similar contests or competitions."

(19) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities;

(20) Possessing, transporting, or storing any weapons, explosives, dangerous chemicals or other weapons, including knives. Illegal possession of weapons or unauthorized use or possession of any device or substance that can be used to inflict bodily harm or to damage real or personal property. This does not apply to commissioned police officers as prescribed by law;

(21) Violating any other provision of the *Student Rights and Responsibilities Handbook*.

NEW SECTION

WAC 132Q-02-050 Academic dishonesty. Academic dishonesty includes cheating, plagiarism, or knowingly furnishing false information to the college or district. Acts of dishonesty are serious breaches of honor and shall be dealt with in the following manner:

(1) Any student who commits or aids and abets the accomplishment of an act of academic dishonesty shall be subject to disciplinary action;

(2) The class instructor is responsible for handling each case of dishonesty in the classroom except where a major or repeated offense is involved. In cases of academic dishonesty, the instructor may or may not dismiss the student from class and/or adjust the student's grade and/or determine appropriate action. If the instructor and the department chair concur that a case should be referred for further college action (which could include suspension or expulsion from the college), the matter is referred to the appropriate vice president, who may convene the college Disciplinary Committee. Any action relating to academic dishonesty, including action adjusting the student's grade, is subject to appeal by the student as in any other case of academic grievance.

NEW SECTION

WAC 132Q-02-060 Classroom conduct/learning environment. Instructors have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

An instructor has the authority to exclude a student from any single class/program session during which the student is

so disorderly or disruptive that it is difficult or impossible to maintain classroom decorum. The instructor shall report any such exclusion from class/program to the appropriate vice president or designee. The appropriate vice president or designee may initiate disciplinary action as provided in this procedure.

Bringing any person, thing or object to a teaching and learning environment, that may disrupt the environment or cause a safety or health hazard, without the express approval of the faculty member or other authorized official, is expressly prohibited.

NEW SECTION

WAC 132Q-02-070 Authority to suspend. Each faculty member or administrator has the right to suspend any student from any single class or program, up to three instructional days, if misconduct disrupts any college class, program or the learning and teaching environment by engaging in conduct that renders it difficult or impossible to maintain the decorum of the class, program or teaching and learning environment. Such suspension may include exclusion from the college, or any part thereof, during the period of suspension. The faculty member or administrator shall report this suspension to the appropriate vice president who may set conditions for the student upon return. The student may appeal to the appropriate vice president and that vice president may authorize an earlier return by the student only after consultation with the faculty member or appropriate administrator.

NEW SECTION

WAC 132Q-02-080 Conduct at college functions. College personnel have the right to remove or have removed from a college function and/or the college, for up to three instructional days, any student who, by an act of misconduct, substantially disrupts any college function by engaging in conduct that renders it difficult or impossible to continue such function in an orderly manner.

NEW SECTION

WAC 132Q-02-090 Other punishable acts. Any student who commits any other act on college facilities which is punishable as a misdemeanor or a felony under the laws of the state of Washington and/or the United States and which act is not a violation of any other provision of the *Student Rights and Responsibilities Handbook*, shall be subject to disciplinary action.

NEW SECTION

WAC 132Q-02-100 Hazing. Hazing is prohibited.

Other sections of the *Student Rights and Responsibilities Handbook* may be applicable to hazing violations. Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021

Penalties for Hazing: Any organization, association or student group that knowingly permits hazing shall:

a) Be liable for harm caused to persons or property resulting from hazing; and

b) Be denied recognition by Community Colleges of Spokane as an official organization, association or student group on any campus of CCS. If the organization, association or student group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

A person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for one calendar year.

Forfeiture of state-funded grants, scholarships or awards may continue for an additional calendar year up to and including permanent forfeiture, based upon the seriousness of the violations.

Impermissible conduct not amounting to hazing is subject to sanctions available under the *Student Rights and Responsibilities Handbook* depending upon the seriousness of the violation.

Impermissible conduct associated with initiation into a student organization or group or any pastime or amusement engaged in, with respect to the organization or group, will not be tolerated.

Impermissible conduct, which does not amount to hazing, may include conduct, that causes embarrassment, sleep deprivation, personal humiliation, ridicule or unprotected speech amounting to verbal abuse.

NEW SECTION

WAC 132Q-02-110 Disciplinary actions. Disciplinary action, up to and including expulsion from the college, may be imposed upon a student for failure to abide by the rules of student conduct. The form of disciplinary action imposed on the non-abiding student will determine whether, and under what conditions, the violator may continue as a student at the college.

Any of the following disciplinary actions may be imposed upon violators of the *Student Rights and Responsibilities'* rules and regulations established herein: The appropriate vice president at the remaining college/instructional unit reserves the right to enforce the disciplinary action on his/her campus.

(1) **Disciplinary Warning:** Notice to a student, either verbally or in writing that he/she has violated the rules of student conduct or failed to satisfy the college's expectations regarding conduct. Such warnings imply that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described in this section.

(2) **Fines:** The office of the appropriate vice president may assess monetary fines against individual students for violation of the rules of student conduct. Failure to pay such fines promptly will result in the cancellation of the student's registration and will prevent the student from reregistering. Appeal of this action may be made to the president of the college. The decision of the president is final.

(3) **Disciplinary Reprimand:** Formal actions against a student for violation of the rules of student conduct. Reprimands

are always made in writing to the student by the officer or agency taking action, with copies to the appropriate vice president. A reprimand informs the student that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described in this section.

(4) **Disciplinary Probation:** Formal action placing conditions upon the student's continued attendance for violation of rules of student conduct. The office placing the student on disciplinary probation will specify, in writing, the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specified term or for an indefinite period, which may extend to graduation or other termination of the student's enrollment in the college. Violation of disciplinary probation shall be cause for further disciplinary action.

(5) **Suspension:** Formal but limited dismissal from the college. Termination of student status for violation of the rules of student conduct. The notification dismissing a student will indicate, in writing, the term of the dismissal and any special conditions that must be met before readmission.

(6) **Expulsion:** This shall result in permanent termination of a student's eligibility for enrollment. Notice of the expulsion and its cause shall be presented in writing.

NEW SECTION

WAC 132Q-02-120 Delegation of disciplinary authority. The appropriate vice-president or designee shall have the authority to administer the disciplinary action prescribed in this chapter. The president shall be informed of all student, probation, suspension or expulsion proceedings by the appropriate vice-president.

NEW SECTION

WAC 132Q-02-130 Due process. Students have the right to due process. Disciplinary action may not be imposed without notice to the accused of the nature of the charges. Once notified, a student accused of violating the code of conduct is entitled to procedural due process as set forth in these provisions.

NEW SECTION

WAC 132Q-02-140 Initiation of disciplinary action. A request for disciplinary action on a student for violation(s) of the rules of student conduct shall be referred in writing to the appropriate vice president within five instructional days of the violation. Any member of the administration, faculty, college personnel or any student may make such a request. All requests must be in writing and signed by the individual making the request. The appropriate vice president or designee may decline the request, implement the request or engage in informal negotiations to resolve the situation.

NEW SECTION

WAC 132Q-02-150 Composition of college disciplinary committee. Each college shall have a college disciplinary

ary committee composed of six members plus the presiding officer for a total of seven people who shall be chosen no later than October fifteenth of each academic year. The membership shall be selected as follows:

(1) The recognized faculty-negotiating unit shall appoint two members and one alternate who are teaching on the appropriate campus or college; such members shall serve a two-year term.

(2) The college president shall appoint two members from the college administration who shall serve a term as determined by the president.

(3) The respective student governments on each college campus shall appoint student membership. Student membership must include a male and female student and two alternates who shall serve for no more than one year.

(4) The presiding officer of the college disciplinary committee shall be the appropriate vice president or designee. No person who personally participates in any disciplinary action that is reviewed by the disciplinary committee may serve as presiding officer, nor cast a vote on the merits of the case decided upon by the disciplinary committee pursuant to WAC 132Q-02-180.

(5) No member of the disciplinary committee shall participate in a case in which he/she is witness to or have acted in an advisory capacity.

(6) The chair and members of the committee shall continue in their offices beyond the expiration of their terms until such time as those cases initiated and convened during their term shall be concluded. In no instance shall a new case be presented to a chair whose term has expired.

NEW SECTION

WAC 132Q-02-160 Evidence admissible in proceedings. Only those matters presented at the proceeding in the presence of the accused student, except where the student fails to attend after receipt of proper notice, will be considered in determining whether the college disciplinary committee has sufficient cause to believe that the accused student is guilty of a violation of the rules of student conduct.

In determining whether sufficient cause, as stated above, does exist, members of the disciplinary committee shall give consideration to all evidence that serves as proof and is commonly accepted by reasonable, prudent persons in the conduct of their affairs.

The presiding officer of the college disciplinary committee shall consider the rules of privilege recognized by law and exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

NEW SECTION

WAC 132Q-02-170 Appeal of disciplinary actions. Any disciplinary action taken by the appropriate vice president or designee may be appealed to the college disciplinary committee. Disciplinary action taken by the college disciplinary committee may be appealed to the president of the college. All appeals by a student must be made in writing to the disciplinary committee or president within seven instruc-

tional days after notification of action taken by the disciplinary committee or president.

NEW SECTION

WAC 132Q-02-180 Reporting, recording and maintenance of disciplinary records. The office of the appropriate vice president shall keep all records of disciplinary cases. Except in proceedings where the student is exonerated, all documentary or other physical evidence produced or considered, and all recorded testimony in disciplinary proceedings shall be preserved consistent with guidelines for student education records. No record of proceedings where the student is exonerated, other than the fact of exoneration, shall be maintained in the student's file or other college repository after the date of the student's graduation.

The office of the appropriate vice president shall keep accurate records of all disciplinary actions taken by or reported to that office. All disciplinary action will be entered on the student's record and may be removed at the time of graduation or earlier, at the discretion of the office or individual initiating the action, if special terms and conditions have been met or if other circumstances warrant the removal. A student may petition to that office or individual for removal of such a notation at any time. Otherwise the record of disciplinary action shall be part of that student's record.

NEW SECTION

WAC 132Q-02-190 Initial College disciplinary proceedings. (1) Any student accused of violating any provisions of the *Student Rights and Responsibilities* will be called for an initial conference with the appropriate vice president or designee, and will be informed of what provision(s) of the rules of student conduct the student is charged with violating, and the maximum penalties which might result if the charge is substantiated after consideration in a disciplinary proceeding.

(2) After considering the evidence in the case and interviewing the student or students accused of violating the rules of student conduct, the appropriate vice president or designee, may take any of the following actions:

(a) Terminate the proceeding, exonerating the accused student(s);

(b) Dismiss the case after appropriate counseling and/or advice;

(c) Impose minor sanctions directly (warning, reprimand, disciplinary probation or fine) or such sanctions the student may agree to in writing. These sanctions are subject to the student's rights of appeal as described below;

(d) Refer the matter to the college disciplinary committee for appropriate action. The student shall be notified in writing, within three instructional days, when such a referral is made.

(e) Issue an order of dismissal pursuant to the conditions of WAC 132Q-02-110(4).

(f) Issue an order of expulsion pursuant to the conditions of WAC 132Q-02-110(6).

(3) A student accused of violating any of the rules of student conduct shall be given written notification of any disci-

plinary action taken by the appropriate vice president or designee. In the case of an unmarried student under eighteen years of age, written notification of the disciplinary action taken by the appropriate vice president or designee, shall also be sent to the student's parent(s) or legal guardian(s) under the provisions of the Family Education Rights and Privacy Act (FERPA).

No disciplinary action recommended by the appropriate vice president or designee, is final unless the student fails to exercise his right of appeal as provided in WAC 132Q-02-200.

NEW SECTION

WAC 132Q-02-200 College disciplinary committee proceedings. (1) The college disciplinary committee for each college will reexamine all disciplinary cases referred to it by the appropriate vice president or designee. The student shall be accorded a fair and impartial hearing before the disciplinary committee on any charge of misconduct referred to the committee for initial hearing or appeal. The student's failure to cooperate with the hearing procedures hereinafter outlined, however, shall not prevent the disciplinary committee from making its findings, conclusions and recommendations as provided hereafter. Failure by the student to cooperate may be taken into consideration by the committee.

(2) The student shall be given written notice of the time and place of the proceeding before the college disciplinary committee by registered or certified mail to the student's last known address or presented to the student in person by an appropriate campus official, or any other reasonable means of communication and be afforded not less than twenty days notice. The notice shall contain:

(a) The time and place of the proceeding.

(b) An outline of the charges, a list of witnesses who will appear, a description of any documentary, or other evidence that will be presented at the hearing.

(c) The notice may be amended at any time prior to the hearing but if such amendment is prejudicial to the student's case, the hearing date shall be rescheduled to a later date.

In no case shall efforts to avoid receipt of notice be allowed to interrupt the process of the proceeding.

(3) The student shall be entitled to hear and examine the evidence brought forth and be informed of the identity of its source and shall be entitled to present evidence and witnesses on their own behalf and to cross-examine witnesses appearing as to factual matters. The student shall have the opportunity to request the presence of witnesses or production of other evidence relevant to the issues of the proceedings.

(4) A college representative shall present the evidence and witnesses alleging that the student engaged in misconduct. Only those matters presented at the hearing will be considered in the decision of the committee, but the student's past record of conduct may be taken into account in formulating the committee's recommendations for disciplinary action.

(5) The student may choose to be represented or accompanied by legal counsel and/or accompanied by an advisor, however, counsel cannot speak at the proceeding. Should the student elect representation by legal counsel, the campus official initiating the charges may also be represented by legal

counsel. If the student elects to choose a duly licensed attorney admitted to practice in the United States as counsel, the student must provide three days' notice excluding weekends and holidays to the appropriate vice president.

(6) No one will be required to give self-incriminating evidence.

(7) In all disciplinary proceedings the college may be represented by a designee appointed by the appropriate vice president; said designee may then present the college's case against the student accused of violating the rules of student conduct, provided that in those cases in which the student elects to have a licensed attorney present, the appropriate vice president may elect to have an assistant attorney general attend as well.

(8) An adequate summary of all the evidence and facts presented to the disciplinary committee during the course of the proceedings will be taken. A student's disciplinary record is subject to FERPA and WAC 132Q-06-035.

(9) The presiding officer of the college disciplinary committee shall preside at the disciplinary proceeding and make rulings on all evidentiary procedural matters heard in the course of the disciplinary proceeding.

(10) The student will be provided with a copy of the findings, conclusions and sanctions if any imposed. The student will also be advised of the right to appeal the committee's decision in a written statement to the president within five instructional days.

(11) If there is no appeal to the president, the sanction shall be in effect at the end of the five instructional day appeal period or at such other time as may be indicated by the committee.

NEW SECTION

WAC 132Q-02-210 Conduct at disciplinary proceedings. Proceedings conducted by the college disciplinary committee generally will be held in closed session, except when a student requests that persons other than those directly involved be invited to attend. Such requests shall be made to the chair at least three instructional days in advance of the hearing. The chair may exclude any persons that disrupt the proceedings from the hearing room and may limit the number of persons who may attend in order to afford safety and orderliness to the participants in the proceedings.

Any student attending the disciplinary committee proceeding as an invited guest who continues to disrupt said proceedings after the presiding officer of the committee has asked him/her to cease and desist such activity, shall be subject to disciplinary action.

NEW SECTION

WAC 132Q-02-220 Decision of the college disciplinary committee. Upon conclusion of the disciplinary proceeding, the college disciplinary committee shall consider all the evidence presented and decide by majority vote of the members of the committee which of the following is to be taken:

(a) Terminate the proceedings and exonerate the student(s);

(b) Impose disciplinary actions as provided in WAC 132Q-02-110.

The campus shall in no case proceed with a sanction that, in fact or appearance, duplicates punishment for the same offense unless the interests of the campus are implicated in some separate way by the violation of law.

If a violation of civil law occurs on campus and is also a violation of a published campus regulation, the campus may institute its own proceedings against the offender if the campus interest involved is clearly distinct from that of the outside community.

If a student is charged with an off-campus violation of law, the matter shall be of no disciplinary concern to the campus unless the student is incarcerated and unable to comply with academic requirements.

The student will be provided with a copy of the committee's findings and conclusions regarding whether the student did violate any rule or rules of the code of student conduct. The committee shall also advise the student of the right to present, within five instructional days, a written statement to the president of the college appealing the decision of the college disciplinary committee.

NEW SECTION

WAC 132Q-02-230 Appeal proceedings. (1) All appeals must be submitted to the appropriate vice president, in writing, within ten instructional days.

(2) The college disciplinary committee shall hear appeals of initial disciplinary decisions.

(3) The college president or designee shall hear appeals of the college disciplinary committee's decisions.

NEW SECTION

WAC 132Q-02-240 Readmission after suspension. Any student suspended from the college for disciplinary reasons may apply for readmission by filing requests in writing with the office or individual, which initiated the action resulting in the suspension. Such petitions must indicate how specified conditions have been met and, if the term of the suspension has not expired, any reasons which support a reconsideration of the matter. Because the president of the college participates in all disciplinary actions suspending students from the college, decisions on such petitions of readmission must be reviewed and approved by the president before readmission is granted.

NEW SECTION

WAC 132Q-02-250 Emergency authority of the college president. Ordinarily, disciplinary actions will be imposed only after the appropriate informal or formal hearing procedures have been invoked. However, the college president or his/her authorized representative, by virtue of the authority delegated to him/her by the board of trustees under conditions which the president or authorized representative deems to be an emergency situation, may suspend the student from participation in any or all college privileges, pending the completion of the college disciplinary proceedings out-

lined herein, in order to protect the safety and property of members of the college community or to assure the college's ability to function. In any case in which this provision is invoked, the student(s) in question are entitled to an early hearing before the appropriate vice president, designee or duly appointed committee.

NEW SECTION

WAC 132Q-02-260 Purpose of immediate summary suspension rules. (1) The board of trustees of Community Colleges of Spokane recognizes the need to provide the college's administrators with an immediate system of student discipline that can swiftly and fairly respond to disorder on all district property. The board further desires to create and operate such a system within the framework of due process as presently embodied in the concept of a temporary restraining order.

(2) It is to be understood, however, that nothing within the rules adopted in this chapter shall be construed to replace the provisions of the rules of student conduct and procedures of enforcement included in chapter 132Q-02 WAC and the student disciplinary system created therein. Rather, the provisions of the rules of this chapter shall be deemed to be supplementary to the rules of student conduct by providing a method of suspension during the pending investigation and prosecution for student violations that will be subsequently heard on their merits pursuant to the system included in the rules of student conduct.

NEW SECTION

WAC 132Q-02-270 Initiation of immediate summary suspension proceedings. If the president or designee has cause to believe that any student has violated any rule of student conduct contained in chapter 132Q-02 WAC, and the president or designee has further cause to believe that the student's violation has a significant probability of continuing to disrupt the educational environment of the college, then the president or designee shall, pursuant to the following rules, have authority to suspend the student for a maximum of ten instructional days prior to any subsequent disciplinary proceeding initiated under the rules of student conduct contained in 132Q-02 WAC.

NEW SECTION

WAC 132Q-02-280 Notice of immediate summary suspension proceedings. (1) If the president desires to exercise the authority conferred by WAC 132Q-02-140 against any student, he or she shall direct the appropriate vice president to provide written notice to the student.

(2) The notice shall be entitled "notice of summary suspension proceeding" and shall include the charges against the student, including reference to the law and/or rules of student conduct involved and that the student charged must appear before the appropriate vice president or designee, at a time to be set by the vice president.

NEW SECTION

WAC 132Q-02-290 Procedures of immediate summary suspension proceedings. (1) At the immediate summary suspension proceeding, the college, through the office of the appropriate vice president or designee, shall make a determination as to whether there is probable cause to believe that the violation did occur, as stated in the notice of summary suspension proceedings to the student.

(2) The student may offer oral testimony of himself/herself or another person, submit any statement or affidavit on his/her own behalf, examine any affidavit and cross-examine any witness who may appear against him/her.

(3) The appropriate vice president shall, at the time of the immediate summary suspension proceeding, determine whether there is probable cause to believe that a violation of law or of the rules of student conduct has occurred, pursuant to WAC 132Q-02-220 (1) or (2). In the course of making such a decision, the vice president may only consider the sworn affidavit or oral testimony of persons who have made the allegation and the oral testimony and affidavits submitted by the student charged.

NEW SECTION

WAC 132Q-02-300 Decision by vice president. If the appropriate vice president, following the conclusion of the immediate summary suspension proceeding, finds that there is probable cause to believe that:

(1) The accused student has committed one or more violations of law or rules of student conduct upon any person or college facility, and

(2) That immediate summary suspension of the accused student is necessary to attain peace and order on the campus; and

(3) Such violation(s) of the rules of student conduct constitutes grounds for disciplinary probation or dismissal pursuant to WAC 132Q-02-110.

The appropriate vice president may then, with the written approval of the president, suspend the student from college pending any subsequent disciplinary proceeding initiated under WAC 132Q-02 or reinstate the student with or without conditions.

NEW SECTION

WAC 132Q-02-310 Notice of immediate summary suspension. (1) If a student is suspended pursuant to the above rules, he/she will be provided with a written copy of the appropriate vice president's findings as to whether the vice president had probable cause to believe that the conditions for immediate summary suspension outlined in WAC 132Q-02-200 exist and to whether immediate suspension of the accused student should be issued.

(2) The student suspended in accordance to this rule shall be served a written copy of the notice of suspension by personal service or by registered mail. Notice by mail shall be sent to the student's last known address. The suspension shall be effective for the period dating from the day the notice of suspension is mailed or personal service accomplished.

(3) During the period of immediate summary suspension, the suspended student shall not enter the campus other than to meet with the appropriate vice president or to attend the summary suspension proceeding. However, the appropriate vice president may grant the student special permission to enter for the express purpose of meeting with faculty, college personnel, or students in preparation for the proceeding.

(4) The appropriate vice president at the remaining college reserves the right to enforce the immediate suspension on their campus.

NEW SECTION

WAC 132Q-02-320 Failure to appear. If the accused student has been served in accordance with the notice required in WAC 132Q-02-170, fails to appear at the time designated for the immediate summary suspension proceeding, the appropriate vice president may, with the written concurrence of the president, continue with the proceedings under WAC 132Q-02-180.

NEW SECTION

WAC 132Q-02-330 Appeal of immediate summary suspension. (1) Any student aggrieved by an order issued at the immediate summary suspension proceeding may appeal the suspension to the board of trustees. No such appeal shall be entertained, however, unless written notice of the appeal, specifically describing alleged errors in the findings of the appropriate vice president and the president, is tendered at the office of the president within seventy-two hours following the date the written notice of immediate summary suspension was served or mailed to the student.

(2) The board shall, as soon as reasonably possible, examine the allegations contained within the notice of appeal, along with the findings of the vice president and president, the record of the immediate summary suspension proceeding, and determine whether the immediate summary suspension order is justified. Following such examination, the board of trustees may, at its discretion, uphold the decision or overturn the immediate summary suspension pending determination of the merits of the disciplinary proceeding pursuant to the rules of student conduct.

(3) The board shall notify, by registered or certified mail, the appealing student within forty-eight hours following its consideration of the notice of appeal, as to whether the immediate summary suspension shall be upheld or stayed pending disposition of the disciplinary proceeding pursuant to the rules of student conduct.

NEW SECTION

WAC 132Q-02-340 Immediate summary suspension proceedings not duplicative. (1) As indicated in WAC 132Q-02-110, the immediate summary suspension proceeding shall in no way be substituted for the disciplinary proceedings provided for in the rules of student conduct, chapter 132Q-02 WAC. At the end of the suspension, the student suspended shall be reinstated to full rights and privileges as a student, subject to whatever sanctions may have been or may

be in the future imposed pursuant to the rules of student conduct or these rules of immediate summary suspension.

(2) Any disciplinary proceeding initiated against the student because of violations alleged against another student in the course of the immediate summary suspension proceeding provided for herein, shall be reexamined; provided, that the records made and evidence presented during the course of any aspect of an immediate summary suspension proceeding brought against the student shall be available for the use of the accused student and of the college in a disciplinary proceeding initiated under the rules of student conduct.

NEW SECTION

WAC 132Q-02-350 Confidentiality of student records. Community Colleges of Spokane continually receives requests from outside sources for information about students, both past and present. College personnel are reminded that Public Law 93-380, the Family Educational Rights and Privacy Act (FERPA) of 1974 states that colleges adopt a policy on student education records to insure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information contained in these records. In order to prevent embarrassment or possible legal involvement of District 17 and its employees, because of improper disclosure of information, it is imperative that FERPA be implemented in the release of such information.

NEW SECTION

WAC 132Q-02-360 Education records—Student's right to inspect. (1) A student has the right to inspect and review his/her education records.

(a) For purposes of this section the term "education records" means those records, files, documents, and other materials which contain information directly related to a student, including records regarding the employment of a student when such employment is a result of, and directly related to, student status.

(b) The term "education records" does not include:

(i) Records of instructional, supervisory and administrative personnel and educational personnel which are in the sole possession of the originator and which are not accessible or revealed to any other person except a substitute or designee.

(ii) Records of the campus security department, which are kept apart from those records described in subsection (a) and which are maintained solely for law enforcement purposes are not made available to persons other than law enforcement officials of the same jurisdiction.

(iii) In the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business, which relate exclusively to such person's employment, are not available for use for any other purpose.

(iv) Student records containing medical/psychological information are not available to anyone other than the individual(s) providing treatment; however, such records may be

personally reviewed by a physician or other appropriate professional upon the student's written consent.

(2)(a) Recommendations, evaluations or comments concerning a student that are provided in confidence, either expressed or implied, as between the author and the recipient, shall be made available to the student, except as provided in (b), (c) and (d) of this subsection.

(b) The student may specifically release his or her right to review where the information consists only of confidential recommendations respecting:

(i) Admission to any educational institution; or

(ii) An application for employment: or

(iii) Receipt of an honor or honorary recognition.

(c) A student's waiver of his or her right to access confidential statements shall apply only if:

(i) The student is, upon request, notified of the names of person(s) making confidential statements concerning him or her; and

(ii) Such confidential statements are used solely for the purpose for which they were originally intended; and

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the college/instructional unit.

(d) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release under (a) of this subsection. Such records shall remain confidential and shall be released only with the consent of the author. The institution shall use these records only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to himself/herself.

(4) The office of the appropriate vice president is the official custodian of academic records; and, therefore, is the only office who may issue an official transcript of the student's academic record.

(5) Student educational records may be destroyed in accordance with a department's routine retention schedule. In no case will any record which is requested by a student for review in accordance with this section and WAC 132Q-02-270 be removed or destroyed prior to providing the student access.

NEW SECTION

WAC 132Q-02-370 Records requests and appeals.

(1) A request by a student for review of information shall be made in writing to the college individual(s) or office(s) having custody of the particular record. Any challenge to the contents of educational records shall be addressed by means of a brief adjudicative proceeding.

(2) An individual(s) or office(s) must respond to a request for education records within a reasonable period of time, but in no case more than forty-five days after the request has been made. A college individual(s) or office(s) which is unable to comply with a student's request within the

above-stated time period shall inform the student of that fact and the reason(s) in writing.

(3)(a) A student who feels that his/her request has not been properly answered by a particular individual(s) or office(s) should contact the appropriate vice president, associate dean, director, assistant dean, or individual(s) or office(s) responsible for mediation.

(b) In cases where a student remains dissatisfied after consulting with the appropriate vice president, director, assistant dean or associate dean, the student may then request a proceeding by the college records committee. Following the proceeding, the college's records committee shall render its decision within a reasonable period of time. In all cases, the decision of the college's records committee shall be final.

(c) In no case shall any request for review by a student be considered by the college's records committee, which has not been filed with that body in writing within ninety days from the date of the initial request to the custodian of the record.

(d) The college's records committee shall not review any matter regarding the appropriateness of official academic grades.

NEW SECTION

WAC 132Q-02-380 Release of personally-identifiable records. (1) The college shall not permit access to or the release of education records or personally-identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the following:

(a) College personnel and students when officially appointed to a faculty council or administrative committee, when the information is required for a legitimate educational interest within the performance of their responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those responsibilities.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federally-supported or state-supported educational program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parent(s) to other than those officials and such personally-identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Agencies or individual's requesting information in connection with a student's application for or receipt of financial aid.

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than the representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully-issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance unless the court or other issuing agency orders the college not to notify the student before compliance with the subpoena. The college president, the president's designee, or office(s) receiving a subpoena or judicial order for education records should immediately notify the attorney general.

(g) Parents transfer their rights under FERPA to their child when he/she reaches 18 years of age or attends an institution of postsecondary education. Parents of college students, who request to review their "adult child's" record, must provide documented "dependency status" under Internal Revenue Service (IRS) regulations or have written consent from the student. The final decision whether or not to disclose information about students to their parents is a matter of the institution's policy.

(2) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

(a) A specification of the records to be released;

(b) The reasons for such release; and

(c) The names of the parties to whom such records will be released.

(3) In cases where records are made available without student release as permitted by subsection (1)(b), (c), (d), (e) and (f), the college shall maintain a record kept with the education record released which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (1)(a) need not be recorded.

(4) Personally-identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally-identifiable form to any other parties without obtaining consent of the student.

(5) The term "directory information" used in subsection (1) is defined as information contained in an educational record of a student that would not be generally considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially-recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended by the student.

(3) Students may request in writing that the college not release directory information through written notice to the appropriate vice president.

(4) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).

NEW SECTION

WAC 132Q-02-390 College records. All college individual(s) or office(s) that have custody of education records will develop procedures in accord with WAC 132Q-02-250 through 132Q-02-300. Any supplementary regulations found necessary by departments will be filed with the college's records committee, which will be responsible for periodic review of policy and procedures.

(1) Disciplinary records shall be kept separate from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. Special precautions shall be exercised to insure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provisions shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records.

(2) No records shall be kept that reflect a student's political or ideological beliefs or associations.

(3) Entities within Community Colleges of Spokane share education records.

(4) Students requesting an official copy of their educational transcripts must provide a written request including name, address, student identification number and where the transcript is to be sent.

(5) A processing fee will be assessed for any official transcript sent to institutions outside the jurisdiction of Community Colleges of Spokane.

NEW SECTION

WAC 132Q-02-400 Records committee. Each college shall have a college records committee composed of the appropriate vice president or designee, one student, one faculty and one staff member who shall be appointed by the college president no later than October fifteenth of each academic year. The college's records committee shall be responsible for reviewing unusual requests for information and for assisting in the interpretation of these rules. The committee shall also be responsible for hearing appeals as defined in WAC 132Q-02-380.

NEW SECTION

WAC 132Q-02-410 Eligibility for clinical programs. Any student who fails to comply with the requirements to be eligible for required clinical programs shall be subject to disciplinary action. Requirements may include, but are not limited to, the student having a record of current immunizations and a physical examination, TB test, CPR proficiency, state patrol clearance, proof of liability and medical and accident insurance coverage.

NEW SECTION

WAC 132Q-02-420 Grounds for athletic ineligibility. Any student found by Community Colleges of Spokane to have violated chapter 69.41 RCW by virtue of a criminal conviction or otherwise insofar as it prohibits the possession, use or sale of legend drugs, including anabolic steroids, will be

disqualified from participation in any college sponsored athletic event or activity.

NEW SECTION

WAC 132Q-02-430 Right to brief adjudicative procedure—Athletics. Any student notified of a claimed violation of WAC 132Q-02-040 shall have the right to a brief adjudicative hearing. The appropriate vice President must receive a written request for such a hearing within three instructional days of receipt of a declaration of further athletic ineligibility. If a written request is not received within three instructional days after receipt of the declaration of athletic ineligibility, the student will be deemed to have waived any right to a brief adjudication hearing and will be declared ineligible from further participation in college sponsored athletic events or activities.

NEW SECTION

WAC 132Q-02-440 Brief adjudicative procedure—Athletics. If a timely written request for a hearing is made, the appropriate vice president shall designate a presiding officer who shall be a college administrator who is not involved with the athletic program to conduct the brief adjudicative proceeding. The presiding officer shall promptly conduct the hearing and permit affected parties to explain both the college's view of the matter and the student's view of the matter. The brief adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act, RCW 34.05.482-.494.

NEW SECTION

WAC 132Q-02-450 Brief adjudicative decision—Athletics. The college administrator who acts as presiding officer shall issue a written decision, which shall include a brief statement of the reasons for the decision and a notice that judicial review may be available. All documents presented, considered or prepared by the presiding officer shall be maintained as the official record of the brief administrative proceeding. A decision must be promptly rendered after the conclusion of the proceeding and in no event later than twenty instructional days following the request for a brief adjudicative proceeding is received by the appropriate vice president.

**WSR 03-13-082
PROPOSED RULES
COMMUNITY COLLEGES
OF SPOKANE**

[Filed June 16, 2003, 11:44 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-094.

Title of Rule: Adopt new chapter 132Q-07 WAC; repeal chapters 132Q-03, 132Q-04, 132Q-05 and 132Q-06 WAC;

and amend, repeal and adopt new sections to chapters 132Q-94 and 132Q-108 WAC.

Purpose: Repealing 132Q-03-005 Grounds for ineligibility, 132Q-03-010 Right to brief adjudicative procedure, 132Q-03-020 Brief adjudicative procedure, 132Q-03-030 Decision, 132Q-04-010 Purpose for adoption of student rules, 132Q-04-020 Definitions, 132Q-04-030 Jurisdiction, 132Q-04-031 Prohibited conduct, 132Q-04-076 Hazing prohibited, 132Q-04-077 Penalties for hazing, 132Q-04-078 Sanctions for impermissible conduct not amounting to hazing, 132Q-04-097 Eligibility for clinical programs, 132Q-04-160 Purpose of disciplinary actions, 132Q-04-170 Initiation of prosecution, 132Q-04-180 Initial disciplinary proceedings, 132Q-04-190 Appeals, 132Q-04-200 Composition of college disciplinary committee, 132Q-04-210 Brief adjudicative proceeding, 132Q-04-220 Conduct of disciplinary proceedings, 132Q-04-230 Evidence admissible in proceedings, 132Q-04-240 Decision by the committee, 132Q-04-250 Final decision regarding appeal of disciplinary committee action, 132Q-04-260 Disciplinary action, 132Q-04-270 Readmission after dismissal, 132Q-04-280 Reporting, recording and maintenance of records, 132Q-05-010 Purpose of summary suspension rules, 132Q-05-020 Definitions, 132Q-05-030 Jurisdiction, 132Q-05-033 Authority to suspend, 132Q-05-036 Conduct at college functions, 132Q-05-040 Initiation of summary suspension proceedings, 132Q-05-050 Notice of summary proceedings, 132Q-05-060 Procedures of summary suspension proceeding, 132Q-05-070 Decision by vice-president, 132Q-05-080 Notice of suspension, 132Q-05-090 Suspension for failure to appear, 132Q-05-100 Appeal, 132Q-05-110 Summary suspension proceedings not duplicitous, 132Q-05-120 Reporting, recording and maintenance of records, 132Q-06-010 Confidentiality of student records, 132Q-06-015 Definition of a student, 132Q-06-016 Definition of personally identifiable information, 132Q-06-020 Education records—Student's right to inspect, 132Q-06-025 Requests and appeal procedures, 132Q-06-030 Release of personally-identifiable records, 132Q-06-035 College records and 132Q-06-040 Records committee, to consolidate student rules into one chapter.

Repealing WAC 132Q-04-100 Right of assembly, 132Q-04-105 Other punishable acts, 132Q-04-110 Commercial activities, 132Q-04-120 Outside speakers, 132Q-04-130 Trespass, 132Q-04-140 Distribution of materials and 132Q-04-150 Right to demand identification, to consolidate general campus conduct rules into one chapter.

New sections WAC 132Q-07-010 Authority to demand identification, 132Q-07-020 Right of assembly, 132Q-07-030 Outside speakers, 132Q-07-040 Distribution of materials, 132Q-07-050 Commercial activities and 132Q-07-060 Trespass, to consolidate general campus conduct rules into one chapter.

New sections WAC 132Q-20-005 Definitions; repealing WAC 132Q-20-020 Definitions; and amending WAC 132Q-20-010 Purpose and jurisdiction for adopting rules, 132Q-20-040 Permits required for vehicles on campus, 132Q-20-050 Authorization for issuance of permits, 132Q-20-060 Valid permits, 132Q-20-070 Display of permits, 132Q-20-080 Transfer of permits, 132Q-20-090 Permit revocation, 132Q-20-110 Right to appeal permit revocation/refusal, 132Q-20-

120 Responsibility of permit holder, 132Q-20-130 Designation of parking spaces, 132Q-20-140 Parking within designated spaces, 132Q-20-150 Parking hours, 132Q-20-170 Regulatory signs and directions, 132Q-20-180 Speed limit, 132Q-20-190 Pedestrians' right of way, 132Q-20-200 Special traffic and parking regulations and restrictions authorized, 132Q-20-210 Two-wheeled motor-bikes or bicycles, 132Q-20-220 Report of accidents, 132Q-20-230 Exceptions from traffic and parking restrictions, 132Q-20-240 Enforcement, 132Q-20-250 Issuance of traffic citations, 132Q-20-260 Fines and penalties for students, 132Q-20-265 Fines and penalties for all district employees, 132Q-20-270 Liability of CCS, 132Q-94-010 Declaration of purpose, 132Q-94-020 Rationale, 132Q-94-030 Students' responsibilities, 132Q-94-130 violations, 132Q-94-150 Prohibition of weapons and other dangerous instrumentalities, 132Q-108-010 Adoption of model rules of practice and procedure, 132Q-108-020 Appointment of presiding officers, 132Q-108-040 Application for adjudicative proceeding and 132Q-108-050 Brief adjudicative procedures, housekeeping changes.

New section WAC 132Q-94-160 Prohibition of open flames in college buildings, new rule to prevent candles and/or any other open flames in campus buildings.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: None.

Summary: To update district rules regulating student conduct, suspension and dismissal procedures, traffic and parking rules, general campus conduct and general safety and health rules.

Reasons Supporting Proposal: To improve district efficiency.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Connie Stafford Sherman, 501 North Riverpoint Boulevard, P.O. Box 6000, (509) 434-5060.

Name of Proponent: Community Colleges of Spokane, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed changes primarily are for housekeeping purposes and district efficiency. Rules repealed are now consolidated in student rights and responsibilities and general campus conduct chapters to create ease of reading and understanding. Various other changes include updating terminology and procedural changes.

Proposal does not change existing rules. The proposal changes do not affect any current rules in substantive manner. Changes are primarily for housekeeping purposes and clarification.

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

RCW 34.05.328 does not apply to this rule adoption. Rules are primarily for internal district operation and are not subject to violation by a nongovernment party.

Hearing Location: 2000 North Greene Street, Spokane, WA 99217, on August 19, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Connie Stafford Sherman by August 8, 2003.

Submit Written Comments to: Connie Stafford Sherman, 501 North Riverpoint Boulevard, P.O. Box 6000, Mailstop 1002, Spokane, WA 99217-6000, fax (509) 434-5025, by August 8, 2003.

Date of Intended Adoption: August 19, 2003.

June 12, 2003
 Connie Stafford Sherman
 Vice Chancellor
 Systems Administration

NEW SECTION

WAC 132Q-07-010 Authority to demand identification. (1) For the purpose of determining whether probable cause exists for application of any section of the *Student Rights and Responsibilities* to any conduct by any person on a college facility, any faculty or other college personnel of Community Colleges of Spokane may demand that any person on college facilities produce evidence of student enrollment at the college, by tender of said person's student identification card.

(2) Refusal by a student to produce a student identification card, as required by subsection (1) of this section, shall be cause for disciplinary action.

NEW SECTION

WAC 132Q-07-020 Right of assembly. Students shall have the right of "assembly" as defined in WAC 132Q-02-010 upon college facilities that are generally available to the public. Such assembly shall:

- (a) Be conducted in an orderly manner; and
- (b) Not unreasonably interfere with vehicular or pedestrian traffic; or
- (c) Not unreasonably interfere with classes, schedules, meetings or ceremonies, or with educational functions of the college; and
- (d) Not unreasonably interfere with college functions.

(2) A student who conducts or participates in an assembly that violates any provision of this section shall be subject to disciplinary action.

(3) Non-students who participate in, aid or abet any assembly or assemblies in violation of this section shall be subject to possible prosecution under the state criminal trespass law and/or any other possible civil or criminal remedies available to the college. Faculty and other college personnel who participate in, aid or abet any assembly or assemblies in violation of this section shall be subject to appropriate discipline.

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

NEW SECTION

WAC 132Q-07-030 Outside speakers. (1) Any recognized campus student organization may invite speakers on campus with the written approval of its advisor, subject to other restrictions imposed in this WAC and to the legal

restraints imposed by the laws of the United States and the state of Washington.

(2) The appearance of an invited speaker on a campus does not represent an endorsement, either implicit or explicit, of views or opinions of the speaker by the college, its students, its faculty, its college personnel, its administration or its board.

(3) The scheduling of speakers shall be made through the facilities scheduling office of the campus at which the speaker will appear, with prior approval from the appropriate college student activities office.

(4) The appropriate student activities office will be notified at least thirty days prior to the appearance of an invited speaker, at which time a Personal Services Contract (available in the Student Activities office) must be completed with all particulars regarding speaker, time, place, etc., signed by the sponsoring organization's advisor, and filed with the Student Activities office. Exceptions to the thirty-day ruling may be made by the appropriate administrator.

(5) The appropriate student activities office may require a question period or arrange to have views other than those of the invited speakers represented at the meeting, or at a subsequent meeting.

NEW SECTION

WAC 132Q-07-040 Distribution of materials. (1) Handbills, leaflets, newspapers, and similarly related material (including religious matter) distributed free of charge by any student, non-student, by member of a recognized student organization or by college personnel, may be distributed upon a college campus with prior approval by the appropriate student center administrator, provided that such distribution does not interfere with the free flow of vehicle or pedestrian traffic.

(2) Newspapers, leaflets, and similarly related materials offered for sale by any student or non-student person or organization may be distributed and sold only through the college book store as are other commercial forms of merchandise, subject to reasonable rules and regulations that may be imposed by the bookstore manager. Exceptions may be made by the appropriate vice president or designee.

(3) All handbills, leaflets, newspapers, and similarly related material (including religious matter) must bear identification as to the publishing agency and distributing organization or individual.

(4) Any distribution of the materials regulated in this section shall not be construed as endorsement of the same by the college or by the board of trustees of Community Colleges of Spokane.

NEW SECTION

WAC 132Q-07-050 Commercial activities. (1) No student or college personnel shall use college facilities for commercial solicitation, or promotional activities except when such activities clearly serve educational objectives. These activities include but are not limited to the display of books of interest to the academic community or the display or demonstration of technical or research equipment. Commercial

solicitation may be conducted under the sponsorship or request of a college department or the office of student activities of the college, provided that such solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of pedestrian or vehicular traffic.

(2) For the purpose of this regulation, the term "commercial activities" does not include handbills, leaflets, newspapers, and similarly related materials as regulated in WAC 132Q-07-040.

NEW SECTION

WAC 132Q-07-060 Trespass. (1) The appropriate president or designee of the college in the instance of any event that is determined to be disruptive of order, impedes the movement of vehicles or persons; or threatens to disrupt the movement of persons from college facilities or grounds, shall have the power and authority to:

(a) Give notice against trespass by any manner provided for by law, to any person(s), or group against whom the privilege has been withdrawn or who have been prohibited from entering on or remaining upon any or all portions of a college facility; or

(b) Prohibit the entry of, or withdraw the privilege of a person(s) or any group to enter or remain on any portion of a college facility; or

(c) Order any person(s), or group to leave or vacate all or any portion of a college facility or grounds.

Any student or non-student who shall disobey a lawful order given by the president, or designee, pursuant to the requirements of subsection (1) of this section, shall be subject to disciplinary action and/or referred to law enforcement for possible criminal charges.

NEW SECTION

WAC 132Q-20-005 Definitions. As used in this chapter the following words and phrases shall mean:

(1) **Annual permits** - Permits, which are valid for fall through summer quarters.

(2) **Appropriate vice president** - The chief administrative officer over student services regardless of current position title.

(3) **Board** - The board of trustees of Washington State Community College District 17, also known as Community Colleges of Spokane (CCS).

(4) **Campus** - Any or all real property owned, leased, operated or maintained by Community Colleges of Spokane.

(5) **Campus patrol** - An employee of the college, Administration of Justice student or contracted security personnel, who are responsible to the appropriate vice president for campus security.

(6) **College** - Any community college or separate instructional unit which may be created by the board of trustees of Community Colleges of Spokane.

(7) **College personnel** - Any person employed or representing on a full- or part-time basis Community Colleges of Spokane.

(8) **Community Colleges of Spokane** - Spokane Community College, Spokane Falls Community College, Institute for Extended Learning and the District Office.

(9) **Quarterly permits** - Permits valid for a specified academic quarter.

(10) **Special Permits** - Permits issued under special circumstances such as "D" permit which is a quarterly disabled parking permit issued by Disability Support Services; Car-pool permits, issued to college personnel who participate in commuter trip reduction; and Honorary permit which are issued to Community Colleges of Spokane personnel upon retirement.

(11) **Student** - Any person who is or has officially registered at any college or instructional unit with the Community Colleges of Spokane and with respect to whom the college maintains education records or personally identifiable information.

(12) **Temporary guest permits** - Permits, which are valid for a specific period designated on the permit.

(13) **Vehicle** - An automobile, truck, motorcycle, scooter, or any vehicle empowered by a motor.

(14) **Visitors** - Any person or persons, excluding students as previously defined, who come upon the campus as guests and person or persons who lawfully visit the campus for purposes, which are in keeping with the colleges' role as institutions of higher learning in the state of Washington.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-010 Purpose and jurisdiction for adopting rules. Pursuant to the authority granted by RCW 28B.50.140(10), the board of trustees of Community Colleges of Spokane is granted authority to make rules and regulations for pedestrian and vehicular traffic on property owned, operated or maintained by the college district. The rules and regulations contained in this chapter pertain to all ((faculty,)) students, college personnel, and visitors who use district facilities unless exempted by the chancellor/CEO of the district and are established for the following purposes:

(1) To protect and control pedestrian and vehicular traffic; and

(2) To assure access at all times for emergency traffic; and

(3) To minimize traffic disturbance during class hours; and

(4) To facilitate the work of the community colleges.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-040 Permits required for vehicles on campus. Students, ((faculty, administration,)) college personnel, guests and visitors shall not stop, park, or leave a vehicle whether attended or unattended upon the campus without a parking permit issued pursuant to WAC 132Q-20-050, except guests and visitors who will be given a reasonable time to secure a temporary permit from the appropriate vice-president or designee. All students who plan to park on

campus and are attending educational programs on campus that meet ten or more times per quarter are required to purchase a valid quarterly permit. Failure to obtain a permit ~~((shall))~~ may be grounds for disciplinary action. The fee for the parking permit shall be established ~~((from time to time))~~ by the board of trustees of Community Colleges of Spokane and shall be published. ~~((Students attending education programs on campus that meet))~~ Anyone parking on campus less than ten times per quarter shall ~~((are to))~~ obtain temporary guest permit(s).

AMENDATORY SECTION (Amending WSR 00-14-007 [87-16-010], filed 6/26/00 [7/23/87])

WAC 132Q-20-050 Authorization for issuance of permits. The colleges are authorized to issue parking permits to students, ~~((faculty,))~~ college personnel, guests and visitors of the college pursuant to regulations and the payment of appropriate fees as determined by the Board of Trustees of Community Colleges of Spokane. ~~((the following regulations:~~

~~(1) Upon payment of the appropriate fee a student who intends to use college parking facilities may be issued a parking permit upon the registration of his or her vehicle with the college at the beginning of each college quarter (fall quarter, winter quarter, spring quarter, and summer quarter).~~

~~(2) Upon payment of the appropriate fee faculty, college personnel, and students will be issued parking permits for their vehicle if they intend to use college parking facilities.~~

~~(3) The dean of student personnel services, or the dean's designee, may issue temporary and special parking permits when such permits are necessary to enhance the business or operation of the college.)~~

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

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-060 Valid permit. A valid CCS parking permit is:

(1) An unexpired parking permit registered and properly displayed; or

~~((2) A short term parking permit authorized by the appropriate vice president or designee, and properly displayed; or~~

~~(3))~~ (2) A special parking permit authorized by the appropriate vice-president or designee, and properly displayed; or

~~((4))~~ (3) A temporary guest~~((s))~~ permit authorized by the appropriate vice-president or designee, and properly displayed. ~~((; or~~

~~(5) A shop permit authorized by a vocational technical instructor and properly displayed.)~~

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 87-16-010 (Resolution No. 27), filed 7/23/87)

WAC 132Q-20-070 Display of permit. All CCS permanent and temporary parking permits shall be hung on the rear view mirror or in such a manner that they may be viewed through the front windshield. For motorcycles, permits must be placed on the front fork area of the vehicle. ~~((permanently affixed to the inside of the rear window on the lower left corner directly behind the driver. For convertibles and pickups with campers, permits must be placed in the lower right hand corner of the front windshield, and for motoreycles, placed either on front shock absorbers or battery covers (flat surface) or toolbox covers (right hand side). Temporary permits shall be hung on the rear view mirror in such a manner that they may be viewed through the front windshield.))~~

(1) Expired permits should be removed before ~~((the))~~ new permits are attached.

(2) Permits not displayed pursuant to the provisions of this section shall not be valid.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-080 Transfer of permits. ~~((Student parking))~~ Parking permits are not transferable to other individuals but may be transferred to another vehicle owned and operated by the purchaser of the permit. ~~((Replacement student parking permits may be obtained for an unused valid portion of such permit provided that the permit holder requests such replacement pursuant to regulations issued from time to time by the Community Colleges of Spokane. An employee parking permit may be transferred to another vehicle, provided that such permit is duly displayed on the parked vehicle but cannot be transferred to another individual.))~~

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-090 Permit revocation. Parking permits are the property of the college and may be recalled by the appropriate vice president or designee for any of the following reasons:

(1) When the purpose for which the permit was issued changes or no longer exists; or

(2) When a permit is used for an unregistered vehicle or by an unauthorized individual; or

(3) Falsification on a parking permit application; or

(4) Continued violations of parking regulations; or

(5) Counterfeiting or altering a parking permit.

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

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-110 Right to appeal permit revocation/refusal. ~~((or refusal to grant permit)).~~ When a student

PROPOSED

parking permit has been recalled pursuant to WAC 132Q-20-090, or has been refused in accordance with WAC 132Q-20-100, or when a fine or penalty has been levied against a violator of the rules and regulations set forth in this chapter, such action by the appropriate vice-president or designee, may be appealed pursuant to WAC 132Q-108-050; ~~((provided, however, that faculty))~~ Faculty, administrators, and college personnel of Community Colleges of Spokane shall appeal permit revocations, refusals to grant permits, and fines or penalties levied for violations by the appropriate vice-president to the respective college president((s)) whose decision on the matter shall be final. ~~((Refusal to pay a fine still existing after exhaustion of the appellate process shall be grounds for disciplinary action. In the case of students, failure to pay fines after the exhaustion of the appellate process shall be grounds for the college, in addition to disciplinary action, to deny admission for subsequent enrollment with Community Colleges of Spokane. In the case of employees, failure to pay fines could result in the denial of issuing a permit, and/or impounding of vehicles.))~~

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

AMENDATORY SECTION (Amending Order 71-4, filed 7/26/71)

WAC 132Q-20-120 Responsibility of permit holder. ~~((person to whom permit issued.))~~ The person to whom a parking permit is issued pursuant to the rules and regulations set forth in this chapter shall be responsible for all violations of said rules and regulations involving the vehicle and established fines. ~~((, but such))~~ Such responsibility shall not relieve other persons who violate the rules and regulations established by this chapter of their responsibility for their conduct ((by their conduct)) with vehicles registered ~~((with))~~ to another permit holder.

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

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-130 Designation of parking spaces. The parking spaces available on campus shall be designated and allocated by the appropriate vice-president or designee, in such a manner ~~((which will))~~ that best achieves ~~((effectuate))~~ the objectives of the rules and regulations in this chapter.

(1) Faculty staff, student, and visitor spaces will be ~~((se))~~ designated for their use; and

(2) Parking spaces for the exclusive use by persons ~~((with))~~ of disability will be designated. The ~~((office of student services))~~ appropriate vice-president or designee may issue special permits to students and others to park in these designated spaces; ~~((and))~~

(3) CCS parking permit along with an official state Disabled Parking Permit allows the permit holder to park in any designated parking space as listed above; and

~~((3))~~ (4) Other special use spaces may be designated.

AMENDATORY SECTION (Amending Order 71-4, filed 7/26/71)

WAC 132Q-20-140 Parking within designated spaces. (1) All vehicles shall follow traffic arrows and other markings established for the purpose of directing traffic on campus.

(2) In areas marked for diagonal parking, vehicles shall be parked at a forty-five-degree angle, facing in.

(3) In areas marked for parallel or right-angle parking, space or stall markings will be observed.

(4) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(5) No vehicle shall be parked on the campus except in those areas set aside and designated pursuant to WAC 132Q-20-130.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-150 Parking hours. Parking is permitted on campus between the hours of 6:30 a.m. to 11:00 p.m. for ~~((faculty,))~~ college personnel, and students. The rules and regulations pertaining to the use of certain parking permits in specific areas are contained in WAC 132Q-20-130~~((140))~~. Students~~((, faculty,))~~ and college personnel may park in any of the spaces or stalls designated in WAC 132Q-20-140 except visitor's areas on a first-come, first-served basis between the hours of 5:00 p.m. and 11:00 p.m. Custodial and other authorized personnel may park on campus from ~~((11))~~ 10:00 p.m. to 6:30 a.m., and are still required to follow regular parking regulations and obtain parking permits.

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 00-14-007, filed 6/26/00)

WAC 132Q-20-170 Regulatory signs and directions. The appropriate vice-president or designee~~((;))~~ is authorized to erect signs, barricades and other structures and to paint marks or other directions upon the entry-ways and streets on campus and upon the various parking lots owned, leased or operated by the colleges. Such signs, barricades, structures, markings, and directions, shall be ~~((se))~~ made and placed to ~~((as in the opinion of the appropriate vice-president or designee, which will))~~ best achieve ~~((effectuate))~~ the objectives stated in WAC 132Q-20-010 and ~~((will best effectuate))~~ the rules and regulations contained in this chapter.

Drivers of vehicles shall observe and obey the signs, barricades, structures, markings and directions erected pursuant to this section. Drivers shall also comply with the directions

given them by the campus patrol in the control and regulation of traffic.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-180 Speed limit. No vehicle shall be operated on the campuses at a speed in excess of the posted speed limit ~~((in parking lots; and the posted speed limit on campus roads))~~ or such slower speed as is reasonable and prudent in the circumstances. No person operating a vehicle of any type shall at any time use the campus parking lots for testing, racing, or other unauthorized activities unless authorized by the appropriate vice-president or designee.

AMENDATORY SECTION (Amending WSR 87-16-010 (Resolution No. 27), filed 7/23/87)

WAC 132Q-20-190 Pedestrians' right of way. (1) The operator of a vehicle shall yield the right of way; ~~((;))~~ slowing down or stopping, if need be, to ~~((se))~~ yield to any pedestrian. ~~((;but no))~~ No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle ~~((which))~~ that is so close ~~((that is))~~ it is impossible for the driver to yield.

(2) Whenever any vehicle slows or stops ~~((se as))~~ to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass such a vehicle that ~~((which))~~ has slowed or stopped to yield to pedestrian traffic.

(3) Every pedestrian crossing at any point other than ~~((within))~~ a marked crosswalk or within an unmarked crosswalk at an intersection, shall yield the right of way to all vehicles.

(4) Pedestrians shall use sidewalks where provided. ~~((Where a sidewalk is provided, pedestrians shall proceed upon such a sidewalk.))~~

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-200 Special traffic and parking regulations and restrictions authorized. ~~((Upon))~~ when special occasions create ~~((causing))~~ additional and/or heavy traffic and during emergencies, the appropriate vice-president or designee, is authorized to impose additional traffic and parking regulations and restrictions ~~((for the))~~ achieve ~~((ment of))~~ the objectives specified in WAC 132Q-20-010.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-210 Two-wheeled motor ~~((-))~~ bikes or bicycles. (1) All two-wheeled vehicles empowered by a motor shall park in a space designated for *motorcycles only*.

(2) No vehicle shall be driven or ridden on the sidewalks on campus at any time unless authorized by the appropriate vice-president or designee.

No skateboards or roller blades/skates shall be allowed on campus.

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 00-14-007, filed 6/26/00)

WAC 132Q-20-220 Report of accidents. The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or *total of claimed damage to either or both vehicles exceeding \$300.00 shall immediately report the* ~~((such))~~ accident to the appropriate vice-president or designee, and shall within twenty-four hours after such accident, file a state of Washington motor vehicle accident report if required.

AMENDATORY SECTION (Amending WSR 87-16-010 (Resolution No. 27), filed 7/23/87)

WAC 132Q-20-230 Exceptions from traffic and parking restrictions. These rules and regulations shall not apply to city-~~((owned))~~, county-~~((owned))~~, ~~((or))~~ state-~~((owned))~~ or federally-owned emergency vehicles.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-240 Enforcement. (1) Enforcement of the parking rules and regulations will begin the first day ~~((of classes))~~ of ~~((the))~~ fall quarter and will continue ~~((through subsequent quarters))~~ until the start of the following fall quarter.

(2) The appropriate vice-president or designee ~~((;))~~ shall be responsible for the enforcement of the rules and regulations contained in this chapter. ~~((The appropriate vice-president is hereby authorized to delegate this responsibility to the campus patrol or other subordinates.))~~

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-250 Issuance of traffic citations. ~~((tickets.))~~ Upon ~~((the))~~ violation ~~((s))~~ of any ~~((of the))~~ rules and/or regulations contained in this chapter, the appropriate vice-president ~~((;))~~ or designee ~~((or subordinates))~~, may issue a ~~((summons or))~~ traffic citations ~~((ticket))~~ setting forth the date, ~~((the))~~ approximate time, permit number, license information, infraction, officer, and schedule of fines. ~~((Such summons or))~~ Traffic citations ~~((tickets))~~ may be served by attaching or affixing a copy ~~((thereof))~~ in a ~~((some))~~ prominent place outside the ~~((such))~~ vehicle or by personally serving the operator/ ~~((or))~~ owner ~~((;))~~ and by direct entry into the violator's "Customer Account".

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

PROPOSED

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-260 Fines and penalties for students. ~~((The appropriate vice president or designee, is authorized to impose the following fines and penalties for the violation of the rules and regulations contained in this chapter:))~~

(1) ~~((Except as provided under subsection (2) of this section, f))~~ Fines will be levied by the appropriate vice president or designee for all violations of the regulations contained in this chapter. A current schedule of fines is available from the security ~~((parking))~~ office.

(2) Students have the right to due process and may appeal a decision of the appropriate vice president or designee to the college president or chief administrator of a recognized instructional unit whose decision shall be final.

~~((2) Community Colleges of Spokane and its recognized instructional units are authorized to:~~

~~(a) Deny registration for subsequent quarters and~~

~~(b) Deny graduation from the college to any student that fails to promptly pay any financial obligation due the college including the payment for parking citations:))~~

(3) Vehicles ~~((which are))~~ parked on any campus ~~((within Community Colleges of Spokane and which are))~~ in violation of any of the regulations contained in this chapter, may be impounded or detained by use of mechanical devices at the discretion of the appropriate vice-president or designee. If a vehicle is impounded, it may be taken to such place for storage as the appropriate vice-president or designee~~((s))~~ selects. The expenses of such impounding~~((s))~~ and storage shall be the sole responsibility of ~~((charged to))~~ the owner or operator of the vehicle, ~~((and paid by him or her prior to its release. The college and its employees))~~ CCS shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(4) At the discretion of the appropriate vice-president or designee, an accumulation of traffic violations by a student will be cause for disciplinary action, ~~((and the appropriate vice president shall initiate disciplinary proceedings against such student))~~ pursuant to WAC 132Q-02-270 ~~((04-180))~~.

(5) The duly elected associated student government officers of CCS ~~((Spokane Falls Community College and Spokane Community College may, in a joint meeting with the District 17 executive committee,))~~ recommend a proposed schedule of fines prior to adoption of a new fine schedule.

(6) Refusal to pay a fine still existing after exhaustion of the appellate process shall be grounds for disciplinary action. In the case of students, failure to pay fines shall be grounds for the college, in addition to disciplinary action, to deny admission to CCS, registration, official transcripts, graduation or other administrative action. Failure to pay fines could result in the denial of issuing a permit.

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

AMENDATORY SECTION (Amending WSR 87-16-010 (Resolution No. 27), filed 7/23/87)

WAC 132Q-20-265 Fines and penalties for all district employees. (1) Fines levied for all violations are subject to payment to CCS ~~((the district))~~ in accordance with the established fine schedule.

(2) Faculty and other district employees have the right of due process and may appeal a decision of the appropriate vice president or designee ~~((dean of student personnel services))~~ to the college president or chief administrator of a recognized institutional unit whose decision shall be final.

(3) Vehicles parked on any campus in violation of any of the regulations contained in this chapter, may be impounded or detained by use of mechanical devices at the discretion of the appropriate vice president or designee. If a vehicle is impounded, it may be taken to such a place of storage as the appropriate vice president or designee selects. The expenses of such impounding and storage shall be the sole responsibility of the owner or operator of the vehicle. CCS shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(4) At the discretion of the appropriate vice president or designee, an accumulation of traffic violations by college personnel is subject to disciplinary action pursuant to WAC 132Q-02-270.

(5) Refusal to pay a fine still existing after exhaustion of the appellate process shall be grounds for disciplinary action. Failure to pay fines could result in the denial of issuance of a permit, and/or impounding of vehicle.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-20-270 Liability of CCS ~~((college))~~. ~~((The))~~ Community Colleges of Spokane assumes no liability under any circumstances for vehicles parked on campus.

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 00-14-007, filed 6/26/00)

WAC 132Q-94-010 Declaration of purpose. By adoption of the following health and safety regulations the board of trustees of ~~((the))~~ Community Colleges of Spokane expresses its firm commitment to the safety and health of its students and employees. The board further recognizes the importance of students and employees developing safe work habits, particularly in the areas of equipment and machinery operation, and in the handling of potentially hazardous chemical substances. This chapter shall apply to all students, college personnel ~~((employees))~~ and visitors and shall pertain to all campuses and sites under the direct or indirect control of the district.

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 00-14-007, filed 6/26/00)

WAC 132Q-94-020 Rationale. Adoption of these health and safety rules by the board of trustees is based on the following standards:

(1) The possibility of accidental injury to an individual exists at all times and in all places and no place of work ((n)) or any human activity is exempt from the possibility of accidents.

(2) All community college safety programs are for the benefit of ((both)) the Community Colleges of Spokane and the individual students enrolled within the institution(s). There is no conflict of interests between the students and the college in the area of an accident prevention program; through accident prevention, everyone benefits.

(3) Accident prevention requires both organization and education, consisting largely of the desire to provide and maintain an environment free of hazards through institution of a common-sense safety program and the determination to carry out the program effectively.

(4) Effective accident prevention includes instructor leadership, student cooperation, effective organization, thorough training, and good supervision.

AMENDATORY SECTION (Amending WSR 00-14-007, filed 6/26/00)

WAC 132Q-94-030 Students' responsibilities. Students attending Community Colleges of Spokane shall, to the best of their ability, make it their individual responsibility to keep themselves and their fellow students free from accidents. In the interest of accident prevention, students shall obey the approved district safety rules and procedures including those outlined below, as well as other, more specific safety rules, as outlined by their instructors:

(1) Students shall consider the benefits of accident prevention to themselves, to others, and to their work, and shall act accordingly, conducting their work to avoid accidents through observation of safe work practices.

(2) Students shall study and observe all safe practices governing their specific area of work or class assignment, and shall make a concerted effort to understand their job and area of assignment.

(3) Students shall ascertain emergency procedures from their instructor or supervisor.

(4) Students shall remain alert for any unsafe condition(s) or practice(s), immediately reporting any observed to their instructor or supervisor.

(5) Students shall promptly report any accident in which they are injured, regardless of the degree of severity, to their instructor or supervisor.

(6) Students shall not engage in practical jokes or horseplay while attending class or while on the job.

(7) Students shall not report to class or a work-study position while under the influence of intoxicants or drugs, nor shall such items be used or consumed while on the premises of the Community Colleges of Spokane or representing the Community Colleges of Spokane at an off-site location.

(8) Students who receive their instructor((s)) or supervisor's permission to operate a state vehicle shall comply with existing fleet policies and procedures of Community Colleges of Spokane.

(9) Students shall comply with existing smoking regulations of the Community Colleges of Spokane.

AMENDATORY SECTION (Amending WSR 87-16-010 (Resolution No. 27), filed 7/23/87)

WAC 132Q-94-130 Violations. Violations of these rules and regulations based on health and safety standards within this chapter((s)) shall be cause for disciplinary action under the provisions of chapter 132Q-02((04)) WAC. Disciplinary proceedings shall be conducted in accordance with chapter 132Q-02((04)) WAC.

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 87-16-010 (Resolution No. 27) [00-14-007], filed 7/23/87 [6/26/00])

WAC 132Q-94-150 Prohibition of weapons ((fire-arms)) and other dangerous instrumentalities. No ((employee)) college personnel, student or member of the public ((guest)) shall carry, transport within a vehicle or otherwise possess any weapon ((gun, pistol or other firearm or)) explosive device, hazardous chemicals or any other hazardous weapon ((device)) such as knives or substance on any college campus or other district property except for use in an authorized college activity with express authorization from the chief executive of the campus or an authorized designee.

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

NEW SECTION

WAC 132Q-94-160 Prohibition of open flames in college buildings. Candles and other open flames, including lighting and burning of incense, are prohibited in any building owned or operated by Community Colleges of Spokane. Open flames create a fire hazard, and scented candles and incense can be an irritant to other individuals. Exceptions may be made if the candle or flame is associated with instructional equipment under appropriate faculty supervision or for decorative/food preparation purposes as part of an approved college function and with appropriate equipment. The Facilities Department obtains necessary permits from the City of Spokane Fire Department for such uses.

AMENDATORY SECTION (Amending WSR 91-17-076, filed 8/21/91)

WAC 132Q-108-010 Adoption of model rules of practice and procedure. The model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended, are hereby adopted for use at Community Colleges of Spokane ((this

PROPOSED

institution)). Those rules may be found in ~~((at))~~ chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and procedural rules adopted in this title, the procedural rules adopted by Community Colleges of Spokane ~~((this institution))~~ shall govern. Rules adopted at CCS ~~((this institution))~~ prior to July 1, 1989, remain in full force and effect unless specifically repealed or amended.

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

AMENDATORY SECTION (Amending WSR 91-17-076, filed 8/21/91)

WAC 132Q-108-020 Appointment of presiding officers. The chancellor/CEO ~~((chief executive officer or a designee of the chief executive officer))~~ shall appoint ~~((designate))~~ a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the chief executive officer or a designee of the chief executive officer, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the chief executive officer or the designee of the chief executive officer to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

AMENDATORY SECTION (Amending WSR 91-17-076, filed 8/21/91)

WAC 132Q-108-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. Application forms are available at the following address: Community Colleges of Spokane, 501 North Riverpoint Boulevard, P.O. Box 6000, MS 1001 ~~((North 2000 Greene Street, Room 01-0119A,))~~ Spokane, Washington, 99217-6000 ~~((99207))~~. Written application for an adjudicative proceeding should be submitted to the above address within 20 days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

AMENDATORY SECTION (Amending WSR 91-17-076 [92-14-039], filed 8/21/91 [6/24/92])

WAC 132Q-108-050 Brief adjudicative procedures. This rule is adopted in accordance with RCW 34.05.482 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

- (1) Residency determinations made pursuant to RCW 28B.15.013, conducted by the admissions office;
- (2) Disputes concerning educational records;
- (3) Student conduct proceedings. The procedural rules in chapter 132Q-02 ~~((04))~~ WAC apply to these procedures;
- (4) Parking violations. The procedural rules in chapter 132Q-20 WAC apply to these proceedings;

- (5) Outstanding debts owed by students or employees;
- (6) Loss of eligibility for participation in institution-sponsored athletic events, pursuant to WAC 132Q-02-510 ~~((03-005))~~.

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

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132Q-03-005	Grounds for ineligibility
WAC 132Q-03-010	Right to brief adjudicative procedure
WAC 132Q-03-020	Brief adjudicative procedure
WAC 132Q-03-030	Decision
WAC 132Q-04-010	Purpose for adoption of student rules
WAC 132Q-04-020	Definitions.
WAC 132Q-04-030	Jurisdiction.
WAC 132Q-04-031	Prohibited conduct.
WAC 132Q-04-076	Hazing prohibited.
WAC 132Q-04-077	Penalties for hazing.
WAC 132Q-04-078	Sanctions for impermissible conduct not amounting to hazing.
WAC 132Q-04-097	Eligibility for clinical programs.
WAC 132Q-04-100	Right of assembly.
WAC 132Q-04-105	Other punishable acts.
WAC 132Q-04-110	Commercial activities.
WAC 132Q-04-120	Outside speakers.
WAC 132Q-04-130	Trespass.
WAC 132Q-04-140	Distribution of materials.
WAC 132Q-04-150	Right to demand identification.
WAC 132Q-04-160	Purpose of disciplinary actions.
WAC 132Q-04-170	Initiation of prosecution.
WAC 132Q-04-180	Initial disciplinary proceedings.
WAC 132Q-04-190	Appeals.
WAC 132Q-04-200	Composition of college disciplinary committee.
WAC 132Q-04-210	Brief adjudicative proceeding.

WAC 132Q-04-220	Conduct of disciplinary proceedings.
WAC 132Q-04-230	Evidence admissible in proceedings.
WAC 132Q-04-240	Decision by the committee.
WAC 132Q-04-250	Final decision regarding appeal of disciplinary committee action.
WAC 132Q-04-260	Disciplinary action.
WAC 132Q-04-270	Readmission after dismissal.
WAC 132Q-04-280	Reporting, recording and maintenance of records.
WAC 132Q-05-010	Purpose of summary suspension rules.
WAC 132Q-05-020	Definitions.
WAC 132Q-05-030	Jurisdiction.
WAC 132Q-05-033	Authority to suspend.
WAC 132Q-05-036	Conduct at college functions.
WAC 132Q-05-040	Initiation of summary suspension proceedings.
WAC 132Q-05-050	Notice of summary proceedings.
WAC 132Q-05-060	Procedures of summary suspension proceeding.
WAC 132Q-05-070	Decision by vice-president.
WAC 132Q-05-080	Notice of suspension.
WAC 132Q-05-090	Suspension for failure to appear.
WAC 132Q-05-100	Appeal.
WAC 132Q-05-110	Summary suspension proceedings not duplicitous.
WAC 132Q-05-120	Reporting, recording and maintenance of records.
WAC 132Q-06-010	Confidentiality of student records.
WAC 132Q-06-015	Definition of a student.
WAC 132Q-06-016	Definition of personally identifiable information.
WAC 132Q-06-020	Education records—Student's right to inspect.
WAC 132Q-06-025	Requests and appeal procedures.
WAC 132Q-06-030	Release of personally-identifiable records.
WAC 132Q-06-035	College records.

WAC 132Q-06-040	Records committee.
WAC 132Q-20-020	Definitions

WSR 03-13-092
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed June 16, 2003, 4:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-24-069 and 02-13-042.

Title of Rule: Chapter 388-14A WAC, this filing encompasses two rule-making projects, both of which require changes to the same rule, namely WAC 388-14A-3110. The Division of Child Support (DCS) is enacting rules dealing with finality of administrative orders (see WSR 02-24-069) and rules dealing with legislative changed from the 2002 session, mostly involving changes to the Uniform Parentage Act, which affect support establishment (see WSR 03-13-042).

Amending WAC 388-14A-3100 How does the division of child support establish a child support obligation when there is no child support order?, 388-14A-3102 When the parents have signed ((a)) an acknowledgment or affidavit of paternity ((affidavit)), which support establishment notice does the division of child support serve on the noncustodial parent?, WAC 388-14A-3110 When can a support establishment notice become a final order?, 388-14A-3115 The notice and finding of financial responsibility is used to set child support when paternity is not an issue, 388-14A-3120 The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity, 388-14A-3131 What happens if neither parent appears for the hearing?, 388-14A-3132 What happens if only one parent appears for the hearing?, 388-14A-3133 What happens when the noncustodial parent and the custodial parent both appear for the hearing?, 388-14A-3370 What legal defenses are available to a noncustodial parent when DCS seeks to enforce a support obligation?, 388-14A-3600 The parties may resolve any child support case by entering a consent order or an agreed settlement, and 388-14A-3810 Once a child support order is entered how long does the support obligation last?; and new sections WAC 388-14A-6105 What is the difference between an initial order and a final order in a hearing involving the division of child support?, 388-14A-6110 When must an ALJ enter an initial order in a DCS hearing proceeding?, 388-14A-6115 When must an ALJ enter a final order in a DCS hearing proceeding?, 388-14A-6120 What can I do if I do not agree with an initial order or final order entered by an administrative law judge?, and 388-14A-6125 When does an initial order or final order entered by an ALJ become enforceable?

Purpose: (1) DCS is adopting new rules in chapter 388-14A WAC dealing with administrative orders and appeals

therefrom, determining when the Office of Administrative Hearings (OAH) issues an initial order, which is subject to review, or a final order, which is not subject to review. Also, minor amendments are proposed to existing rules regarding the finality of orders and other related rules.

(2) DCS is adopting rules to bring the regulations and procedures of the DSHS Division of Child Support into agreement with statutory changes in the 2002 legislative session, namely changes to the Uniform Parentage Act (chapter 302, Laws of 2002) and changes regarding the jurisdiction of DCS (chapter 199, Laws of 2002).

Statutory Authority for Adoption: RCW 34.05.220(1), 74.08.090, 74.20A.056, and 74.20A.310.

Statute Being Implemented: RCW 26.26.315, 26.26.320, 26.26.330, 26.26.335, 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056, and 74.20A.310.

Summary: See Purpose above.

Reasons Supporting Proposal: The proposed amendments and new rules are needed to bring DCS rules into agreement with other DSHS hearing rules and with changes in statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, DCS Headquarters, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

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: (1) Changes to chapter 388-02 WAC adopted effective November 15, 2002, under WSR 02-20-061 make it necessary for DCS to adopt rules regarding this subject to preserve due process rights of those affected by DCS rules. The Division of Child Support is adopting new rules in chapter 388-14A WAC dealing with administrative orders and appeals therefrom, determining when OAH issues an initial order, which is subject to review, or a final order, which is not subject to review.

(2) DCS is adopting rules to bring the regulations and procedures of the DSHS Division of Child Support (DCS) into agreement with statutory changes in the 2002 legislative session, namely changes to the Uniform Parentage Act (chapter 302, Laws of 2002) and changes regarding the jurisdiction of DCS (chapter 199, Laws of 2002).

Proposal Changes the Following Existing Rules: (1) Except for initial decisions entered from administrative hearings regarding address disclosure, the initial decisions in DCS cases entered by an ALJ will be final orders, not subject to review by the DSHS Board of Appeals, pursuant to changes in chapter 388-02 WAC.

(2) Changes in the Uniform Parentage Act and in the statutes regarding DCS' jurisdiction require changes in the rules regarding administrative establishment of support orders for unmarried parents, and for parties who marry and then separate after the entry of a court order such as a paternity order or decree of dissolution; the defense of wrongful deprivation is extended to nonassistance cases after having been restricted to cases where the child received welfare.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects individuals who have support obligations or individuals who are owed child support.

RCW 34.05.328 does not apply to this rule adoption. Proposed rules amended to be in agreement with chapter 388-02 WAC amend hearing procedures and are "procedural rules" per RCW 34.05.328 (5)(c)(i)(A). These rules do not meet the definition of "significant legislative rules" under RCW 34.05.328.

Proposed rules implementing the Uniform Parentage Act and to clarify the jurisdiction of DCS do meet the definition of a significant legislative rule but DSHS/DCS is exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii), which exempts rules relating concerning liability for care of dependents.

Hearing Location: Blake Office Park East (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 1, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, deliver to 4500 10th Avenue S.E., Lacey, WA, mail to P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 5, 2003.

Date of Intended Adoption: No earlier than August 6, 2003.

June 13, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

WAC 388-14A-3100 How does the division of child support establish a child support obligation when there is no child support order? (1) When there is no order setting the amount of child support a noncustodial parent (NCP) should pay, the division of child support (DCS) serves a support establishment notice on the NCP and the custodial parent. A support establishment notice is an administrative notice that can become an enforceable order for support if nobody requests a hearing on the notice.

(2) DCS may serve a support establishment notice when there is no order that:

(a) Establishes the noncustodial parent's support obligation for the child(ren) named in the notice; or

(b) Specifically relieves the noncustodial parent of a support obligation for the child(ren) named in the notice.

(3) Whether support is based upon an administrative order or a court order, DCS may serve a support establishment notice when the parties to a paternity order subsequently marry each other and then separate, or parties to a decree of dissolution remarry each other and then separate.

The remaining provisions of the paternity order or the decree of dissolution, including provisions establishing paternity, remain in effect.

(4) Depending on the legal relationship between the NCP and the child for whom support is being set, DCS serves one of the following support establishment notices:

(a) Notice and finding of financial responsibility (NFFR), see WAC 388-14A-3115. This notice is used when the NCP is either the mother or the legal father of the child. WAC 388-14A-3102 describes when DCS uses a NFFR to set the support obligation of a father who has signed ~~((a)) an acknowledgment or affidavit of paternity ((affidavit)).~~

(b) Notice and finding of parental responsibility (NFPR), see WAC 388-14A-3120. This notice is used when the NCP was not married to the mother but has filed an affidavit or acknowledgment of paternity. WAC 388-14A-3102 describes when DCS uses a NFPR to set the support obligation of a father who has signed ~~((a)) an acknowledgment or affidavit of paternity ((affidavit)).~~

(c) Notice and finding of medical responsibility (NFMR), see WAC 388-14A-3125. This notice is used when DCS seeks to set only a medical support obligation instead of a monetary child support obligation.

AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

WAC 388-14A-3102 When the parents have signed ~~((a)) an acknowledgment or affidavit of paternity ((affidavit)), which support establishment notice does the division of child support serve on the noncustodial parent?~~ (1) When the parents of a child are not married, they may sign an affidavit of paternity, also called an acknowledgment of paternity. The legal effect of the affidavit or acknowledgment depends on when it is filed, in what state it is filed, and whether both parents were over age eighteen when the affidavit was signed.

(2) For ~~((paternity)) affidavits or acknowledgments~~ filed on or before August 14, 1997 with the center for health statistics in the state of Washington, the division of child support (DCS) serves a notice and finding of parental responsibility (NFPR). See WAC 388-14A-3120.

(3) For ~~((paternity)) affidavits or acknowledgments~~ filed ~~((on or))~~ after August 14, 1997 with the center for health statistics in the state of Washington, ~~((it depends on how much time has elapsed since filing:~~

~~((a) If less than sixty days have passed since filing, DCS serves a NFPR under WAC 388-14A-3120, because the parents can rescind (withdraw) the affidavit within sixty days of filing and request genetic testing; or~~

~~((b) If sixty or more days has passed since filing,))~~ DCS serves a notice and finding of financial responsibility (NFFR) under WAC 388-14A-3115, because the affidavit or acknowledgment has become a conclusive presumption of paternity under RCW ~~((26.26.040))~~ 26.26.320.

(4) For ~~((paternity)) acknowledgments or affidavits~~ filed with the vital records agency of another state, DCS determines whether to serve a NFFR or NFPR depending on the laws of the state where the affidavit is filed.

(5) DCS relies on ~~((paternity affidavits))~~ the acknowledgment or affidavit, even if the mother ((and the)) or father were not yet eighteen years of age ((or older)) at the time they signed ((the)) or filed the acknowledgment or affidavit, ((or have reached eighteen years of age since signing the affidavit. A party who was under eighteen at the time the affidavit was signed and filed in Washington after August 14, 1997 has sixty days after their eighteenth birthday to void the affidavit; for affidavits filed in other states, the law of the state of filing determines whether the affidavit is voidable)) as provided in RCW 26.26.315(4).

(6) If the mother was married at the time of the child's birth, but not to the man acknowledging paternity, the man to whom she was married must also have signed ~~((the affidavit to deny))~~ and filed a denial of paternity within ten days of the child's birth.

(7) If the acknowledgment or affidavit is legally deficient in any way, DCS may refer the case for paternity establishment in the superior court.

(8) If the mother is the noncustodial parent, DCS serves a NFFR.

AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

WAC 388-14A-3110 When can a support establishment notice become a final order? (1) The notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR) becomes a final, enforceable order if neither the custodial parent or the noncustodial parent objects and requests a timely hearing on the notice. An objection is also called a hearing request.

(2) If a timely objection is filed, the division of child support (DCS) cannot enforce the terms of the notice until a final order as defined in this section is entered.

(3) To be timely, the noncustodial parent must object within the following time limits:

(a) Within twenty days of service, if the noncustodial parent was served in Washington state.

(b) Within sixty days of service, if the noncustodial parent was served outside of Washington state.

(4) To be timely, the custodial parent must object within twenty days of service.

(5) An objection to a support establishment notice is a request for hearing on the notice.

(6) The effective date of the hearing request is the date the division of child support (DCS) receives the request for hearing.

(7) When an NFPR is served, the order will not become a final order if either parent requests genetic testing under WAC ~~((388-11-048 (or as later amended)))~~ 388-14A-3120(14) within the following time limits:

(a) The noncustodial parent must request genetic testing within twenty days of service, if the noncustodial parent was served in Washington state ~~((and the affidavit has not yet become a final determination of paternity)).~~

(b) The noncustodial parent must request genetic testing within sixty days of service, if the noncustodial parent was

served outside of Washington state (~~and the affidavit has not yet become a final determination of paternity~~).

(c) The custodial parent must request genetic testing within twenty days of service (~~and may request genetic testing only if the affidavit has not yet become a final determination of paternity~~).

~~(d) For parties who have filed paternity affidavits in Washington after August 14, 1997, a request for genetic testing does not by itself operate to rescind the affidavit~~ of the notice.

(8) The noncustodial parent or custodial parent must make the hearing request or request for genetic testing, either in writing or orally, at any DCS office. See WAC (~~388-14-500 (or as later amended)~~) 388-14A-6100 regarding oral requests for hearing.

(9) After a timely request for hearing, the final order is one of the following, whichever occurs latest:

(a) An agreed settlement or consent order under WAC (~~388-11-150 (or as later amended)~~) 388-14A-3600;

(b) An initial decision as defined in WAC 388-14A-6105 and further described in WAC 388-14A-6110, for which twenty-one days have passed and no party has filed a petition for review (this includes an order of default if neither party appears for hearing); or

(c) A final order as defined in WAC 388-14A-6105 and further described in WAC 388-14A-6115; or

(d) A review decision.

AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

WAC 388-14A-3115 The notice and finding of financial responsibility is used to set child support when paternity is not an issue. (1) A notice and finding of financial responsibility (NFFR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.055.

(2) The NFFR:

(a) Advises the noncustodial parent and the custodial parent (who can be either a parent or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFFR fully and fairly advises the parents of their rights and responsibilities under the NFFR.

(b) Includes the information required by (~~WAC 388-11-210 (or as later amended) and~~) RCW 26.23.050 and 74.20A.055.

(c) Includes the noncustodial parent's health insurance obligation, as required by (~~WAC 388-11-215 (or as later amended)~~) RCW 26.18.170 and 26.23.050.

(d) May include an obligation to provide support for day care or special child-rearing expenses, pursuant to chapter 26.19 RCW.

(e) Warns the noncustodial parent and the custodial parent that at an administrative hearing, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFFR, if necessary for an accurate support order.

(3) After service of the NFFR, the noncustodial parent and the custodial parent must notify DCS of any change of

address, or of any changes that may affect the support obligation.

(4) The noncustodial parent must make all support payments to the Washington state support registry after service of the NFFR. DCS does not give the NCP credit for payments made to any other party after service of a NFFR, except as provided by WAC (~~388-11-015 and 388-11-280 (or as these sections are later amended)~~) 388-14A-3375.

(5) DCS may take immediate wage withholding action and enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFFR is a final order. WAC 388-14A-3110 describes when the notice becomes a final order.

(6) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC (~~388-11-155 (or as later amended)~~) 388-14A-3810 describes when the obligation under the NFFR can end sooner or later than age eighteen.

(7) If paternity has been established by an affidavit or acknowledgment of paternity (filed in Washington state on or after August 14, 1997 becomes a legal finding of paternity under RCW 26.26.040 (1)(e) unless it is rescinded (withdrawn) within sixty days of filing. If sixty days have passed since the affidavit or acknowledgment was filed, DCS may serve a NFFR to establish a support obligation) , DCS attaches a copy of the acknowledgment, affidavit, or certificate of birth record information to the notice. A party wishing to challenge the acknowledgment or denial of paternity may only bring an action in court to rescind or challenge the acknowledgment or denial of paternity under RCW 26.26.330 and 26.26.335.

(8) If the parents filed a paternity affidavit or acknowledgment of paternity in another state, and by that state's law paternity is therefore conclusively established, DCS may serve a NFFR to establish a support obligation.

(9) A hearing on a NFFR is for the limited purpose of resolving the NCP's accrued support debt and current support obligation. The NCP has the burden of proving any defenses to liability.

AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

WAC 388-14A-3120 The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity. (1) A notice and finding of parental responsibility (NFPR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.056.

(2) The NFPR differs from a notice and finding of financial responsibility (NFFR) (see WAC 388-14A-3115) because the parties may request genetic testing to contest paternity after being served with a NFPR.

(3) DCS serves a NFPR when:

(a) An affidavit acknowledging paternity is on file with the center for health statistics and was filed before August 14, 1997; or

(b) ~~((An affidavit acknowledging paternity is on file with the center for health statistics and was filed on or after August 14, 1997 but the sixty day period for rescission has not yet passed; or~~

~~(e))~~ An affidavit acknowledging paternity is on file with the vital records agency of another state and the laws of that state allow the parents to withdraw the affidavit or challenge paternity.

(4) DCS attaches a copy of the acknowledgment of paternity or certification of birth record information to the NFPR.

(5) The NFPR advises the noncustodial parent and the custodial parent (who is either the mother or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFPR fully and fairly advises the parents of their rights and responsibilities under the NFPR. The NFPR warns the noncustodial parent and the custodial parent that at an administrative hearing on the notice, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFPR, if necessary for an accurate support order.

(6) The NFPR includes the information required by ~~((WAC 388-11-210 (or as later amended);))~~ RCW 26.23.050, 74.20A.055, and 74.20A.056.

(7) The NFPR includes the noncustodial parent's health insurance obligation, pursuant to ~~((WAC 388-11-215 (or as later amended)))~~ RCW 26.18.170 and 26.23.050.

(8) The NFPR may include an obligation to provide support for day care expenses or special child-rearing expenses, pursuant to chapter 26.19 RCW.

(9) DCS may not assess an accrued support debt for a period longer than five years before the NFPR is served. This limitation does not apply to the extent that the noncustodial parent hid or left the state of Washington for the purpose of avoiding service.

(10) After service of the NFPR, the noncustodial parent and the custodial parent must notify DCS of any change of address, or of any changes that may affect the support obligation.

(11) The noncustodial parent must make all support payments to the Washington state support registry after service of the NFPR. DCS does not give the NCP credit for payments made to any other party after service of the NFPR, except as provided by ~~((WAC 388-11-015 and 388-11-280 (or as these sections are later amended)))~~ 388-14A-3375.

(12) DCS may take immediate wage withholding action and enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFPR is a final order. See WAC 388-14A-3110 for when the notice becomes a final order.

(13) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC ~~((388-11-155 (or as later amended)))~~ 388-14A-3810 describes when the obligation under the NFPR can end sooner or later than age eighteen.

(14) Either the noncustodial parent, or the mother, if she is also the custodial parent, may request genetic tests ~~((under WAC 388-11-048 (or as later amended), notwithstanding the language of WAC 388-11-048, which refers only to the~~

father)). A mother who is not the custodial parent may at any time request that DCS refer the case for paternity establishment in the superior court.

(15) DCS does not stop enforcement of the order unless DCS receives a timely request for hearing or a timely request for genetic tests. See WAC 388-14A-3110 for time limits. DCS does not refund any money collected under the notice if the noncustodial parent is later:

(a) Excluded from being the father by genetic tests; or

(b) Found not to be the father by a court of competent jurisdiction.

(16) If the noncustodial parent requested genetic tests and was not excluded as the father, he may request within twenty days from the date of service of the genetic tests in Washington, or sixty days from the date of service of the genetic tests outside of Washington:

(a) A hearing on the NFPR.

(b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(17) If the noncustodial parent was not excluded as the father, the mother, if she is also the custodial parent, may within twenty days of the date of service of the genetic tests request:

(a) A hearing on the NFPR; or

(b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

~~((18))~~ ~~((If the affidavit or acknowledgment was filed in Washington after August 14, 1997, but sixty days have not passed since filing, DCS serves a NFPR. If the NCP wishes to contest paternity he must rescind (withdraw) the acknowledgment at the center for health statistics before the sixty day period ends or there will be a legal finding of paternity under RCW 26.26.040 (1)(e). A request to DCS for genetic testing is not sufficient to withdraw the paternity affidavit.~~

~~((19))~~ If the NCP is excluded by genetic testing, DCS may refer the case for paternity establishment in the superior court.

~~((20))~~ (19) A hearing on a NFPR is for the limited purpose of resolving the accrued support debt, current support obligation and reimbursement to DCS for paternity-related costs. The NCP has the burden of proving any defenses to liability.

AMENDATORY SECTION (Amending WSR 01-24-081, filed 12/3/01, effective 1/3/02)

WAC 388-14A-3131 What happens if neither parent appears for the hearing? (1) If neither parent appears at the scheduled hearing after being sent a notice of hearing, the administrative law judge (ALJ) enters an ~~((initial decision and))~~ order on default, declaring the support establishment notice's claim for support to be final and subject to collection action. See WAC 388-14A-6110 and 388-14A-6115 to determine whether the ALJ issues an initial order or a final order.

(2) ~~((The initial decision and))~~ As provided in WAC 388-14A-6125, an initial order on default is subject to collection action on the twenty-second day after the order ((of default)) was mailed by the office of administrative hearings,

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and a final default order is enforceable immediately upon entry.

(3) A parent that did not appear may petition to vacate the default order pursuant to WAC 388-14A-6150.

(a) If the ALJ vacates the order of default, the ALJ then conducts a full hearing on the merits of the NFFR, NFPR or NFMR. All parties may participate in the hearing.

(b) If the parent who did not appear at the hearing is unsuccessful in the motion to vacate the default order, the ALJ may treat the petition as a petition to modify the support order.

AMENDATORY SECTION (Amending WSR 01-24-081, filed 12/3/01, effective 1/3/02)

WAC 388-14A-3132 What happens if only one parent appears for the hearing? (1) If one parent appears at the hearing, but the other parent fails to appear after being sent a notice of hearing, the administrative law judge (ALJ) enters an order of default against the parent that did not appear. The hearing proceeds as described in WAC 388-14A-3140. See WAC 388-14A-6110 and 388-14A-6115 to determine whether the ALJ issues an initial order or a final order.

(2) The division of child support (DCS) and the parent that did appear may enter a consent order, but not an agreed settlement. The obligation in the consent order may be higher or lower, or different from, the terms set forth in the notice, without further notice to the nonappearing parent, if necessary for an accurate support order. The terms of the consent order become final ~~((on the twenty-second day after the mailing of))~~ when the order of default to the parent that did not appear becomes final, as provided in WAC 388-14A-6125.

(3) DCS and the parent that did appear may proceed to hearing. The ALJ may enter an initial decision setting an obligation which is higher or lower, or different from, the terms set forth in the notice, without further notice to the nonappearing parent, if necessary for an accurate support order. See WAC 388-14A-6110 and 388-14A-6115 to determine whether the ALJ issues an initial order or a final order.

(4) The parent that did not appear may petition to vacate the order of default pursuant to WAC 388-14A-6150.

(5) If the ALJ vacates the order of default, the ALJ then conducts a full hearing on the merits of the notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR) or notice and finding of medical responsibility (NFMR). All parties may participate in the hearing.

(6) If the parent who did not appear at the hearing is unsuccessful in the motion to vacate the default order, the ALJ may treat the petition as a petition to modify the support order.

AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

WAC 388-14A-3133 What happens when the non-custodial parent and the custodial parent both appear for the hearing? If both parents appear at the hearing:

(1) All parties may enter an agreed settlement or consent order. ~~((WAC 388-11-150 (or as later amended)))~~ 388-14A-3600 describes when an agreed settlement or consent order is a final order.

(2) All parties may proceed to hearing, after which the ALJ issues an ~~((initial decision and))~~ order. The ALJ may enter an ~~((initial decision))~~ order setting an obligation which is higher or lower, or different from, the terms set forth in the notice, if necessary for an accurate support order. See WAC 388-14A-6110 and 388-14A-6115 to determine whether the ALJ issues an initial order or a final order.

(3) In a hearing under this section, the division of child support (DCS) ~~((shall proceed))~~ proceeds first to document the support amount that DCS believes to be correct. Following ~~((DCS's))~~ DCS' presentation, the custodial parent (CP) and the noncustodial parent (NCP) may proceed in turn to show why the DCS position is wrong.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-3370 What legal defenses are available to a noncustodial parent when DCS seeks to enforce a support obligation? (1) A noncustodial parent (NCP) who objects to a notice and finding of financial, parental, or medical responsibility has the burden of establishing defenses to liability. Defenses include, but are not limited to:

(a) Proof of payment;

(b) The existence of a superior court order, tribal court order, or administrative order that sets the NCP's support obligation or specifically relieves the NCP of a support obligation for the child(ren) named in the notice;

(c) The party is not a responsible parent as defined by RCW 74.20A.020(7);

(d) The amount requested in the notice is inconsistent with the Washington state child support schedule, chapter 26.19 RCW;

(e) Equitable estoppel, subject to WAC 388-14A-6500; or

(f) Any other matter constituting an avoidance or affirmative defense.

(2) A dependent child's or a custodial parent's ineligibility to receive public assistance is not a defense to the assessment of a support obligation.

(3) An NCP may be excused from providing support for a dependent child ~~((receiving public assistance under chapter 74.12 RCW))~~ if the NCP is the legal custodian of the child and has been wrongfully deprived of physical custody of the child. The NCP may be excused only for any period during which the NCP was wrongfully deprived of custody. The NCP must establish that:

(a) A court of competent jurisdiction of any state has entered an order giving legal and physical custody of the child to the NCP;

(b) The custody order has not been modified, superseded, or dismissed;

(c) The child was taken or enticed from the NCP's physical custody and the NCP has not subsequently assented to deprivation. Proof of enticement requires more than a show-

ing that the child is allowed to live without certain restrictions the NCP would impose; and

(d) Within a reasonable time after deprivation, the NCP exerted and continues to exert reasonable efforts to regain physical custody of the child.

AMENDATORY SECTION (Amending WSR 01-24-082, filed 12/3/01, effective 1/3/02)

WAC 388-14A-3600 The parties may resolve any child support case by entering a consent order or an agreed settlement. (1) The division of child support (DCS) may enter a consent order or agreed settlement to finalize any dispute in which a party requests a hearing. DCS attempts to settle matters through agreement when possible.

(a) An agreed settlement is signed only by the parties (DCS, the custodial parent and the noncustodial parent).

(b) A consent order must be signed by the parties and by an administrative law judge (ALJ) provided that:

(i) In a telephone hearing, the ALJ may sign on behalf of any party if that party gives their consent on the record; and

(ii) The ALJ approves a consent order without requiring testimony or a hearing, unless entry of the order would be unlawful.

(2) An agreed settlement or consent order is final and enforceable on:

(a) The date the last party signs the agreed settlement, if all parties signed the agreed settlement;

(b) The date the ALJ signs the consent order; or

(c) If the ALJ defaults one of the parties to the proceeding, the latest of the following dates:

(i) The date the ALJ signed the consent order;

(ii) The date the last party signed the agreed settlement;

or
(iii) The date the order of default is final. See WAC 388-14A-6110 and 388-14A-6115 to determine whether the ALJ issues an initial order or a final order.

(3) A party to a consent order or an agreed settlement may:

(a) Not petition for review of the settlement or order under WAC 388-02-0560;

(b) Petition for modification under WAC 388-14A-3925; and

(c) Petition to vacate the settlement or consent order under WAC 388-14A-3700. However, the ALJ may only vacate a settlement or consent order after making a finding of fraud by a party, or on any other basis that would result in manifest injustice.

(4) If a hearing has been scheduled, DCS files a copy of the agreed settlement or consent order with the office of administrative hearings (OAH), and OAH issues an order dismissing the hearing. There are no hearing rights on the order dismissing the hearing.

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-3810 Once a child support order is entered how long does the support obligation last? (1) A

noncustodial parent's obligation to pay support under an administrative order continues until:

(a) A superior or tribal court order supersedes the order;

(b) The order is modified under WAC 388-14A-3925;

(c) The child reaches eighteen years of age;

(d) The child is emancipated;

(e) The child marries;

(f) The child becomes a member of the United States armed forces;

(g) The child or the responsible parent die;

(h) A responsible stepparent's marriage is dissolved; ~~(or)~~

(i) The parties to the order marry or remarry, as provided in WAC 388-14A-3100(3); or

(j) A superior court order terminates the responsible parent's liability as provided under RCW 26.16.205.

(2) As an exception to the above rule, a noncustodial parent's obligation to pay support under an administrative order continues and/or may be established for a dependent child who is:

(a) Under nineteen years of age; and

(b) A full-time student reasonably expected to complete a program of secondary school or the equivalent level of vocational or technical training before the end of the month in which the student becomes nineteen years of age.

(3) A noncustodial parent's obligation to pay support under an administrative order may be temporarily suspended when the:

(a) Noncustodial parent (NCP) resides with the child for whom support is sought for purposes other than visitation;

(b) NCP reconciles with the child and the custodial parent; or

(c) Child returns to the residence of the NCP from a foster care placement, for purposes other than visitation.

(4) When the NCP's obligation to pay current support on a case is suspended under subsection (3) of this section, the division of child support (DCS) informs the NCP that the obligation is suspended, in writing, sent by regular mail to the NCP's last known address.

(5) If circumstances causing an NCP's support obligation to be temporarily suspended change, the support obligation resumes. DCS sends the NCP a notice that the obligation to make current support payments has resumed.

NEW SECTION

WAC 388-14A-6105 What is the difference between an initial order and a final order in a hearing involving the division of child support? (1) In an administrative hearing involving the DSHS division of child support (DCS), the administrative law judge (ALJ) enters either an initial order, which is subject to review, or a final order, which is not subject to review.

(2) The terms "initial order," "final order" and "review" are defined in WAC 388-02-0010, and those definitions are repeated here for ease of reference:

(a) "Initial order" is a hearing decision made by an ALJ that may be reviewed by a review judge pursuant to WAC

PROPOSED

388-02-0215(4). An initial order is sometimes called an "initial decision."

(b) "Final order" means an order that is the final DSHS decision.

(c) "Review" means the act of reviewing initial orders and making the final agency decision as provided by RCW 34.05.464.

(3) WAC 388-14A-6110 and 388-14A-6115 describe how to determine what kind of order is entered. Whether the ALJ enters an initial order or a final order does not depend on the date the hearing is held or the date the order is entered.

(4) WAC 388-14A-6120 describes what you can do if you disagree with an initial order or final order.

(5) WAC 388-14A-6125 describes when DCS may take enforcement action on an initial order or final order.

NEW SECTION

WAC 388-14A-6110 When must an ALJ enter an initial order in a DCS hearing proceeding? An administrative law judge (ALJ) must enter an initial order in a division of child support (DCS) hearing proceeding if:

(1) The case involves the disclosure of a party's address under WAC 388-14A-2114 through 388-14A-2140;

(2) A custodial parent (CP) or noncustodial parent (NCP) files a hearing request before November 15, 2002;

(3) A CP or NCP files a petition for modification with DCS or the office of administrative hearings (OAH) before November 15, 2002; or

(4) DCS petitions for modification of an administrative order, and either the NCP or the CP is served with the notice of hearing before November 15, 2002.

NEW SECTION

WAC 388-14A-6115 When must an ALJ enter a final order in a DCS hearing proceeding? Except for cases regarding address disclosure under WAC 388-14A-2114 through 388-14A-2140, an administrative law judge (ALJ) must enter a final order in a DCS hearing proceeding if:

(1) A custodial parent (CP) or noncustodial parent (NCP) files a hearing request on or after November 15, 2002;

(2) An NCP or CP files a petition for modification with DCS or the office of administrative hearings (OAH) on or after November 15, 2002;

(3) DCS petitions for modification of an administrative order, and neither the NCP nor the CP is served before November 15, 2002.

NEW SECTION

WAC 388-14A-6120 What can I do if I do not agree with an initial order or final order entered by an administrative law judge? (1) Except for the DCS representative, any party to an initial order entered by an administrative law judge (ALJ) has the right to request review pursuant to chapter 388-02 WAC.

(2) No party may request administrative review of a final order entered by an ALJ.

(3) Any party to an initial order or a final order may petition to vacate an order of dismissal or default, pursuant to WAC 388-14A-3700 and 388-14A-6150.

(4) Any party to an initial order or final order may request correction of a clerical error in the order, pursuant to WAC 388-02-0540 through 388-02-0555.

(5) Any party to a final order may request reconsideration of the order, pursuant to WAC 388-02-0605 through 388-02-0635.

(6) Except for the DCS representative, any party to a final order may petition for judicial review, pursuant to RCW 34.05.510 through 34.05.598. You do not need to request reconsideration of the order before you petition for judicial review.

NEW SECTION

WAC 388-14A-6125 When does an initial order or final order entered by an ALJ become enforceable? (1) If no party requests review within twenty-one days of the date OAH mailed an initial order, the DSHS division of child support (DCS) may take enforcement action on the twenty-second day after OAH mailed the order.

(2) DCS may take enforcement action on a final order immediately upon entry of the order.

(a) Even if a party files a request for reconsideration, a request to correct a clerical error, a petition to vacate, or a petition for judicial review, DCS does not stop enforcement of the order.

(b) To stop DCS from enforcing a final order, you must obtain a court order staying (stopping) enforcement of the order.

WSR 03-13-108

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 03-02—Filed June 17, 2003, 3:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-019.

Title of Rule: Chapter 173-26 WAC, State master program approval/amendment procedures and shoreline master program guidelines.

Purpose: New Shoreline Management Act (SMA) guidelines for development/amendment of master programs, to implement statutory requirements to update the guidelines consistent with SMA policy, replacing Parts 3 and 4 of chapter 173-26 WAC which were invalidated after administrative review. Among other things, these rules establish planning and regulatory definitions and standards for future shoreline development and uses, requirements for protection and restoration of shoreline ecological functions, guidance on the limitations of regulatory authority and guidance on shorelines and Growth Management Act integration. The following sections of chapter 173-26 WAC will be repealed and replaced with new rule language: WAC 173-26-170 through 173-26-350. Existing Part V Ocean Management is proposed

to remain unchanged, but relabeled as Part IV of chapter 173-26 WAC.

Statutory Authority for Adoption: Chapter 90.58 RCW and specifically RCW 90.58.060.

Statute Being Implemented: Chapter 90.58 RCW and specifically RCW 90.58.020, [90.58].050, and [90.58].060.

Summary: The proposed rule provides updated guidance for local governments and the department in developing and amending local shoreline master program policies and regulations. The local government shoreline master programs, the SMA, and these guidelines identify requirements and strategies for regulation of development, uses and activities in shoreline areas throughout the state, implementing the policies and requirements of the SMA.

Reasons Supporting Proposal: The 1995 legislature directed ecology to periodically review and adopt new guidelines consistent with SMA policy and integrate shorelines and growth management plans and development regulations. Updated guidelines will provide direction to local governments, the state and its citizenry in implementing the SMA. The shoreline guidelines have not been comprehensively updated since original adoption over thirty years ago. New guidelines are needed to recognize: Advancements in science regarding how shorelines should be managed, changes in law, the character of shoreline development and innovations in shorelines and growth management practice.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Peter Skowlund, Ecology Headquarters, Lacey, (360) 407-6522.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Proposed new guidelines are being developed to recognize changes in shoreline management law, science and land use practice. The new guidelines will be implemented as local governments update their local shoreline master programs to comply with deadlines established in statute adopted by the 2003 legislature. Updated shoreline master programs will provide updated standards for public and private construction and location of structures, uses and activities in shoreline areas, including dredging, drilling, dumping, filling, removal of minerals, removal/restoration of vegetation, bulkheading and related shoreline stabilization devices, driving of pilings, placing of obstructions or any project which interferes with the normal public use of the surface waters of the state. The new guidelines will apply to water areas, associated wetlands and adjacent uplands that are subject to the Shoreline Management Act.

Proposal Changes the Following Existing Rules: Yes, the proposal will change existing rules. It is proposed to repeal the existing Parts III and IV of chapter 173-26 WAC (which were declared invalid in part by the Shorelines Hearings Board) and to replace them with new rule language proposed by the department. Existing Part V, Ocean Management, is also proposed to be relocated (to be labeled as Part IV), unchanged.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

EXECUTIVE SUMMARY: The Department of Ecology is proposing adoption of new Shoreline Management Act (SMA) guidelines. These guidelines provide procedural and substantive directions for local governments that are subject to the Shoreline Management Act as they review and update Shoreline master programs. As a result of an agreement with various stakeholders, ecology is developing and issuing this draft small business economic impact statement (SBEIS) under RCW 19.85.030 to accompany this rule adoption. After review and comment by interested persons, ecology will issue a final SBEIS and use the information developed by the SBEIS as required by law to ensure that the proposed rules are consistent with legislative policy.

The objective of this SBEIS is to identify and evaluate the various requirements and costs that the proposed rule might impose on business. In particular, the SBEIS studies whether the costs on business that might be imposed by the proposed rule impose a disproportionate impact on the state's small businesses.

The Shoreline Management Act guidelines being considered for adoption are, most directly, rules for local government to follow when developing a local shoreline master program. As the term is defined by RCW 19.85.020, no "business" is required to comply with any direct requirement of these guidelines. The guidelines are directed at local governments who are reviewing the condition of their shorelines and who will be adopting updated SMPs to be consistent with the guidelines. Accordingly, the guidelines do not directly regulate development and use of the shorelines; the regulations of the local government in the SMP regulate development and use of the shorelines. The guidelines of course provide minimum standards for the local shoreline master programs and therefore have an indirect regulatory effect, which this SBEIS will evaluate.

This SBEIS first analyzes particular industries to evaluate the costs imposed by the proposed rule. The SMA guidelines could indirectly affect many industries, but several are more likely to be affected than others. This SBEIS addresses the following general business areas as a basis for characterizing costs imposed on business and whether there is a disproportionate cost placed on small businesses:

- Development and construction businesses,
- Shoreline stabilization contractors,
- Agriculture,
- Mining,
- Marine transportation (e.g. marinas, ferries, etc.).

All industry categories listed above could be affected by the proposed rule through increased compliance costs associated with increased shoreline investigation, monitoring and mitigation. This would include the costs associated with engineers, biologists, and other professional services that are required to be retained as part of an increased emphasis on shoreline assessment and no net loss of ecological function. These increased costs will be borne by both small and large firms to the extent that both these types of firms work in shoreline areas. Some of these additional costs will likely be passed along to the purchasers of developed land or the own-

ers of projects on which contractors are working which will reduce the direct impact on these industries.

Assessing disproportionate impacts is made difficult due to lack of available data, which in part reflects the indirect nature of how the guidelines affect local government regulation which in turn may affect businesses. In general, it is reasonable to assume that assessment/mitigation costs are going to be related to the size of a project undertaken. In the case of developers, the mining industry and marine transportation, these costs should vary with the size of the parcels developed. If larger firms tend to utilize larger parcels, then the assessment costs will tend to be more proportional than if all firms utilize the same size parcels. Existing data of a wide variety of industrial classifications in two counties indicate that larger firms do tend to utilize larger parcels, but on a "per employee" basis, the reverse is true; smaller firms utilize more land/employee. For purposes of analysis, this SBEIS conservatively evaluates this data to suggest that compliance costs may be disproportionate.

A second potential impact that may be imposed on businesses in the shoreline is reductions in land value that is possible from increased shoreline land use restrictions. To analyze whether a typical regulation would have an effect on businesses, a hypothetical scenario was constructed involving the imposition of a vegetative buffer which would reduce the amount of useable land for any shoreline owner by 10%. To analyze the impact of this hypothetical type of land use restriction, shoreline ownership data was obtained for two counties to evaluate land ownership in detail. Data for King and Yakima counties were considered, and it was found that, smaller firms utilize larger parcels on a per employee basis. The results of this analysis indicate that the disproportionate cost impact of a hypothetical land use restriction between small and large firms will be between eight and eleven times in King County and two and four times in Yakima County (It should be emphasized that this analysis is offered in order to detect the potential for disproportionate impact. This analysis, however, is not intended to demonstrate that the SMA guidelines in fact reduce any land values.)

The draft regulations include several provisions that may mitigate any disproportionate effects of these regulations. These include:

- A requirement that the guidelines assure compliance with all constitutional and statutory limitations on the regulation of private property.
- Guideline design that allows for flexibility in SMP development and mitigation requirements that allow for a wide variety of alternatives.
- An implementation schedule for these guidelines allowing local government up to eleven years to develop and adopt master programs providing a substantial amount of time for complying businesses to adapt.
- Provisions for conditional uses and variances providing regulatory flexibility to adjust requirements.
- Promotion of alternative approaches to shoreline development that will mitigate the impacts of guideline requirements on some firms.

Introduction: The Department of Ecology is proposing adoption of new Shoreline Management Act (SMA) guidelines. These guidelines provide procedural and substantive directions for the local governments that are subject to the Shoreline Management Act ("the act" or "the SMA") as they review and update shoreline master programs ("SMPs"). The act requires ecology to periodically review and amend the existing guidelines for SMPs that implement the act. In particular, updating the guidelines and shoreline master programs was directed by the legislature in 1995 amendments of RCW 90.58.060.

Broadly stated, the goals of adopting the proposed guidelines include:

- Complying with the legislative mandate in RCW 90.58.060.
- Updating the former guidelines to bring them into conformance with the intent and language of the Act and with current practices and information relevant to shoreline management.

As a result of an agreement with various stakeholders, ecology is developing and issuing this draft small business economic impact statement (SBEIS) under RCW 19.85.030 to accompany this rule adoption. After review and comment by interested persons, ecology will issue a final SBEIS and use the information developed by the SBEIS as required by law to ensure that the proposed rules are consistent with legislative policy.

Objective of the SBEIS: The objective of this SBEIS is to identify and evaluate the various requirements and costs that the proposed rule might impose on business. In particular, the SBEIS examines whether the costs on business that might be imposed by the proposed rule impose a disproportionate impact on the state's small businesses. This is consistent with the legislative purpose of the Regulatory Fairness Act, chapter 19.85 RCW, and is set out in RCW 19.85.011:

"The legislature finds that administrative rules adopted by state agencies can have a disproportionate impact on the state's small businesses because of the size of those businesses. This disproportionate impact reduces competition, innovation, employment, and new employment opportunities, and threatens the very existence of some small businesses. The legislature therefore enacts the Regulatory Fairness Act with the intent of reducing the disproportionate impact of state administrative rules on small business."

The specific purpose and required contents of the SBEIS is contained in RCW 19.85.040. (The bracketed numbers and emphasized words are for the reader's convenience, and reflect some of the organization of this draft SBEIS.)

"(1) A small business economic impact statement must include [1] a brief description of the reporting, record keeping, and other compliance requirements of the proposed rule, and [2] the kinds of professional services that a small business is likely to need in order to comply with such requirements. [3] It shall analyze the costs of compliance for businesses required to comply with the proposed rule adopted pursuant to RCW 34.05.320, including costs of equipment, supplies, labor and increased administrative costs. [4] It shall consider, based on input received, whether compliance

with the rule will cause businesses to lose sales or revenue. [5] To determine whether the proposed rule will have a disproportionate impact on small businesses, the impact statement must compare the costs of compliance for small businesses with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rules using one or more of the following as a basis for comparing costs:

- a. Cost per employee
- b. Cost per hour of labor
- c. Cost per hundred dollars of sales

(2) A small business economic impact statement must also include:

a. [6] A statement taken by the agency to reduce the costs of the rule on small businesses as required by RCW 19.85.030(3), or reasonable justification for not doing so, addressing the options listed in RCW 19.85.030(3).

b. [7] A description of how the agency will involve small business in the development of the rule; and

c. [8] A list of industries that will be required to comply with the rule. However, this subsection (2)(c) shall not be construed to preclude application of the rule to any business or industry to which it would otherwise apply."

For purposes of an SBEIS, the terms "business," "small business," and "Industry" are defined by RCW 19.85.020. "Small business" means 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. "Industry" means all of the businesses in this state in any one four-digit standard industrial classification as published by the United States Department of Commerce.

After summarizing the requirements and content of the proposed rule, this SBEIS will address the required elements of an SBEIS in the following order:

Part 1 - This section provides [1] a brief description of the reporting, record keeping, and other compliance requirements of the proposed rule, [2] the kinds of professional services that a small business is likely to need in order to comply with such requirements, [3] the costs of compliance for businesses required to comply with the proposed rule including costs of equipment, supplies, labor and increased administrative costs, and [4] whether compliance with the rule will cause businesses to lose sales or revenue.

Part 2 - This section evaluates [5] whether the proposed rule will have a disproportionate impact on small businesses.

Part 3 - This section includes [5] an analysis of a hypothetical scenario to determine if the guidelines might disproportionately impact small businesses located in shoreline areas by comparing the costs of compliance for small businesses with the cost of compliance for businesses that are the largest businesses.

Part 4 - This section considers [6] actions taken to reduce the impact of the rule on small business.

Part 5 - This section describes [7] how small business was involved in the development of the rule.

Part 6 - This section provides [8] a list of industries required to comply with the rule.

Overview of the Shoreline Management Act and the Proposed Guidelines for Shoreline Master Programs: The Shoreline Management Act requires and authorizes a cooperative program between state and local government to plan for and regulate the uses of the shorelines of the state. The term shoreline is fully defined by RCW 90.58.030 and generally includes all lands covered by marine waters, rivers and streams greater than twenty cubic feet per second and ponds greater than twenty acres, and lands within two hundred feet of the ordinary high water mark of those water bodies, and associated wetlands and flood plains.

Under the act, local government has the primary responsibility for conducting the required planning and for administration of the local plan and development regulations. This is known as the local "shoreline master program" or SMP, once the SMP is adopted by local government and approved by ecology. State government, acting through the Department of Ecology, provides technical assistance and oversight to assure that the policies of the act are carried out. A primary responsibility of ecology is the adoption of rules to guide the development or updating of local shoreline master programs, and to provide the standards by which ecology will subsequently approve those programs.

In 1972 the Department of Ecology adopted chapter 173-16 WAC, which set the initial guidelines for development of local shoreline master programs. Under the SMA, each city or county with "shorelines" as defined by the act must adopt a shoreline master program (SMP) that is consistent with the act and with ecology guidelines. Each city and county, within these sideboards, is then authorized to tailor their SMP to their specific needs.

As a land use plan, SMP's contain both a planning element and specific development regulations. The planning element identifies how the local government plans for the future development and uses of particular shorelines - such as defining whether an area is planned for commercial, residential, or urban uses. The regulatory elements provide implementing regulations that limit development and uses consistent with the plan for an area.

As noted above, the SMA itself defines the scope of the act in terms of all marine waters, streams with flows of greater than twenty CFS, lakes larger than twenty acres and upland areas two hundred feet landward (shorelands), associated wetlands and some or all of one hundred year floodplains. The proposed guidelines do not alter these statutorily established limits and requirements regarding where the SMA must be applied.

One of the key implementing provisions of the SMA is the permit system it establishes for construction and development activities, which fall within the definition of "substantial development," and the requirements the SMA provides for notice and public comment opportunities on such substantial development. The act also requires that local government establish a system for review of variances that function like a permit process. Variances allow for consideration of reasonable exceptions from the applicability of the provisions of an

SMP where its application is disproportionately burdensome based on specific circumstances.

Finally, the SMA allows local governments to create conditional uses within its master program which require a conditional use permit to be approved. This allows consideration of uses that (in the absence of appropriate conditions) may or may not be consistent with the master program depending on the specific elements of the project and site. All conditional use permits and all variances issued and approved by the local government must also be approved by ecology to be valid. The provisions of the permit system are set in statute and are not altered by the proposed guidelines.

The local master program is a comprehensive land use regulation for the shoreline and applies to all uses and developments whether or not a statutorily established permit is required.

In 1995 the legislature amended the SMA to direct ecology to review and adopt new guidelines for local master programs. The department initiated a process (itemized in Appendix A) that resulted in the guidelines currently being considered for adoption. The purpose of this SBEIS is to focus on the potential incremental impacts to small business associated with adoption of updated guidelines, and to ensure that feasible and legal steps have been taken to reduce disproportionate costs that the rules would impose on small businesses.

Part 1 - Analyzing the Costs Imposed on Businesses:

The Shoreline Management Act guidelines being considered for adoption are, most directly, rules for local government to follow when developing a local shoreline master program. As the term is defined by RCW 19.85.020, no "business" is required to comply with any direct requirement of these guidelines. The guidelines are directed at local governments who are reviewing the condition of their shorelines and who will be adopting updated SMPs to be consistent with the guidelines. Accordingly, the guidelines do not directly regulate development and use of the shorelines; the regulations of the local government in the SMP regulate development and use of the shorelines. The guidelines of course provide minimum standards for the local shoreline master programs and therefore have an indirect regulatory effect, which this SBEIS will evaluate.¹

As land use rules, the primary effect of the master programs that result from the proposed guidelines will be on the development of new uses or facilities or expansion of existing uses or facilities. While local master programs may vary, with few exceptions existing uses are not required to change unless they propose to expand or otherwise redevelop their property. Thereby one primary group of businesses that could be affected by the guidelines and SMPs that comply with the guidelines is the development and construction industry in general, and particularly those segments of the industry that specialize in shoreline related development.

Other businesses likely to be affected by SMPs adopted in accordance with these guidelines are businesses that mine, dredge or otherwise move earth in the shorelines as a part of their operation. This is because the SMA definition of "development" includes these activities and therefore the ongoing operations require ongoing authorization.

Therefore, this SBEIS first analyzes particular business areas to evaluate the costs imposed on them by the proposed rules. It addresses the following areas as a basis for characterizing costs imposed on business and whether there is a disproportionate cost placed on small business in an industry:

- Development and construction businesses,
- Shoreline stabilization contractors,
- Agriculture,
- Mining,
- Marine transportation.

In addition to evaluating the costs on businesses that might be indirectly affected by the requirements of the guidelines, this SBEIS also evaluates how a wide variety of businesses located in the shoreline might be affected if a particular land use regulation is imposed. It tries to evaluate whether these guidelines impose disproportionate costs on smaller businesses when considering the variety of businesses that might locate on shoreline property. This analysis is contained in *Part 3 – An Analysis of Scenarios Evaluating Whether the Guidelines Could Disproportionately Affect the Variety of Businesses Located within Shorelines by Affecting Land Values.*

A Brief Description of the Reporting, Record Keeping, and Other Compliance Requirements, and the Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply, the Costs of Equipment, Supplies, Labor and Increased Administrative Costs, Whether Such Compliance will Cause Businesses to Lose Sales or Revenue: The specific compliance costs borne by small and large firms are difficult to determine. The SMA guidelines are intended to aid local jurisdictions in developing their own SMP's. Local governments then develop the specific management tools and regulations that will be imposed on the businesses within their jurisdiction. Ecology will approve the SMP; however, they will only be ensuring that the minimum standards outlined in the SMA and in the guidelines are adhered to. As such, the effect of the guidelines is likely to vary significantly depending on the type of business, the location, and on the plans of the local government. However, given the goal of no net loss of shoreline ecological functions articulated in the draft guidelines, it can be reasonably stated that shoreline development costs will rise as a result of the guidelines (although other federal and state laws arguably impose similar requirements for environmental protection). The components of these costs may include all or one of the following; increased cost of preparatory studies, site design and mitigation, reduction in usable space, and/or increased land acquisition cost due to limitations on the availability of developable land. Studies, site design and mitigation costs will be extremely variable. Increased land acquisition costs are very difficult to separate from other market factors that affect such costs.

As discussed above, the proposed rules do not require any "business" to conduct ongoing reporting or record keeping. Nothing in the proposed rules are likely to result in increased administrative costs, or add general requirements for equipment, supplies or labor for businesses in general. The main additional costs will result from increased environ-

mental assessment costs, reduction in revenue and/or limitations on land uses and values.

Development Businesses: It is likely that some types of development activities will require additional investigation of potential impacts to shoreline resources as a prerequisite to approval of the project, and mitigation of those impacts which may include ongoing monitoring of the mitigation for a specific period of time to assure that it accomplishes the intended purpose. Professional services will be required for most substantial developments to conduct this investigation and prepare mitigation proposals. These would typically be scientific and technical design services. This is, however, not significantly different than the existing requirements of most current SMPs. It is similar to requirements of other laws applicable to development in shoreline areas.

For the construction and development industry, small, common projects such as a single family residence will typically require little special investigation, if any. In this way, the act itself and the guidelines reduce impact on the smaller businesses associated with single family residence construction. Compliance with the specific requirements of the shoreline master program will be all that is required.

Conversely, development of a large parcel of previously undeveloped land for almost any use will require a thorough investigation of the impacts to shoreline resources and development of mitigation options to address the identified impacts.

It is unlikely that any compliance cost will result in an existing business losing revenue or sales, because the predominant effect of the guidelines is prospective planning and regulation of land use. The guidelines should affect the size or location of new or additional development and subdivisions, which could conceivably affect the extent of future potential increased revenue or sales. The guidelines have attempted to mitigate that effect by emphasizing constitutional protections for local governments to consider in updating their SMPs. However, given the overall purposes of the SMA described in RCW 90.58.020, appropriate limitations on subdivision and development are required by statute, and local SMPs have very limited potential to distinguish between small and large subdivision businesses in setting land use plans and development regulations.

Shoreline Stabilization Contractors: Because of the nature of the jobs they do, which directly alter shoreline areas, shoreline stabilization contractors will more likely be required to secure additional professional services under the proposed guidelines. The guidelines require local master programs to include provisions that assure that where shoreline stabilization is allowed, that the specific nature of the problem (the "need") is identified and that the solution is designed to minimize interference with the ecological functions in the area being affected. Mitigation of any adverse environmental impacts will also be required. These requirements will require evaluation of the hydrology and biology of the project vicinity and engineering design that takes this evaluation into account. This will likely result in increased assessment and mitigation costs.

Shoreline stabilization contractors may also experience a loss in sales or revenue as the new guidelines may lessen the

need for shoreline stabilization and shoreline armoring at various locations.

Agricultural Businesses: Agricultural businesses are unlikely to have any additional professional service requirements for a number of reasons. Cultivation and other customary operations of a farm that currently exists are broadly "grandfathered in" under provisions of the SMA to the extent they occur on agricultural land. The guidelines and act will not significantly affect these businesses.

Future conversion of nonagricultural land to agriculture will require compliance with the requirements of the SMP. However, as a general matter, the guidelines do not require new or special services to assure compliance with these requirements for SMPs.

New agricultural activities could experience a limitation on sales or revenue if useable land area is restricted adjacent to shorelines.

Mining Businesses: Mining operations within the shoreline may require additional professional services periodically to gain authorization of a new site or for expanding the use of an existing site beyond previously authorized areas or to provide monitoring of mitigation features once authorization is granted. Depending on the setting this will most likely involve hydrological and biological analysis and engineering services to address site characteristics and project design.

Sales or revenue should not be significantly affected by these requirements. However, any new land use restrictions developed as part of an SMP could affect future revenue.

Water Transportation Businesses: Traditional (floating) marina businesses are unlikely to require additional services either for development of new facilities or ongoing operation. Because they are located in the water, the issues that must be addressed as a result of a new local master program are likely to parallel the requirements of existing federal and state requirements currently applicable. Professional services necessary for land side development for marinas and other water oriented transportation businesses whether associated with a floating facility or as part of a significant shoreline development would be similar to that for any development as described in the paragraph for "development businesses."

Part 2 - Whether the Proposed Rule Will Have a Disproportionate Impact on Small Businesses: This analysis is provided to meet the guidelines of the Regulatory Fairness Act, chapter 19.85 RCW. To comply with the RFA, the SBEIS must identify potentially affected industries, define small and large businesses, and determine the compliance costs for these businesses. It then must compare the cost of compliance for small businesses with the cost of compliance for large businesses. If there turns out to be a disproportionate impact on small businesses in comparison with large businesses, the RFA requires that the costs imposed by the rule on small businesses be reduced where legal and feasible in meeting the objective of the statutes upon which the rule is based. If steps are not taken to reduce costs on small business, the agency must provide reasonable justification for not doing so.

As noted previously, the evaluation of potentially affected industries can hypothetically extend to indirect

effects on most industries in the state. To limit the speculation about indirect effects, this SBEIS reviews five types of industries as noted above, because these could be more directly affected by local regulations adopted as a result of the revised SMA guidelines. In general, the specific compliance costs are difficult to determine because the guidelines will not directly impose any specific requirements on businesses. The specific requirements will be developed by local governments and are unknown at this time. Moreover, the data necessary for determining disproportionate effects is not generally available in most cases. As such, a discussion of effects on small and large firms is provided below. Aggregate data on employment and income is provided, and a list of four-digit SIC codes is provided in Appendix A that parallels the five broad business classifications identified above.

Development Business: As noted previously, firms that are currently involved in subdividing and other land development activities may be required to perform increased environmental assessment, monitoring and mitigation activities as a result of the revised guidelines. The additional compliance costs associated with these increased requirements will be for direct professional services for such occupations as engineers, surveyors, geologists, and biologists. The specific increase will be based on the magnitude of the work to be performed (i.e. larger projects will likely require more assessment/mitigation and therefore are likely to cost more).

Industry data indicates that there are three hundred sixty nine firms in SIC 6552 "Subdividers and Developers" in Washington state with total employment of 2,083.² These are firms engaged in subdividing real property and developing it for resale on their own account. Of these firms, five would be considered "large" firms (i.e. have at least fifty employees). The industry as a whole had gross income of approximately \$393 million in 2001.³

The ability of developers to pass these increased costs along to the purchasers of developed properties will depend on purchaser preferences for shoreline parcels and the prices of other properties available. To the extent that all identical shoreline properties will likely require additional assessment, and in cases with shoreline dependent industries, it is likely that much of the compliance costs could be passed along in the form of increased land prices. In cases where other non-shoreline properties are viable alternatives for prospective purchasers, only a portion of the increased compliance cost will likely be passed along. These additional costs may be borne as reduced profits either from direct costs or reduced land value. Since this will apply to most similar shoreline lots, we would not expect a change in the competitive nature of the shoreline development business.

Assessing the disproportionality of costs on any firm in this industry is made difficult due to the lack of available data and due to the indirect nature of the potential costs. Whether such costs are disproportionate would depend on size of the development projects undertaken by small and large firms and the degree of assessment/monitoring required. If we assume that assessment and mitigation costs are correlated with parcel size, then knowing the underlying shoreline property ownership and parcel size of these firms may allow us to consider compliance costs. In the data set collected and

described in Appendix C, four land development firms were listed as owners of shoreline parcels in King County and identified as development firms (SIC 6552). They are all small firms the largest of which has thirteen employees. As such, if new assessment requirements were placed on developers currently owning shoreline properties in King County, the additional costs would only affect small businesses in this industry. However, large firms are likely involved in shoreline development activities elsewhere and increased assessment costs may impact them.

Shoreline Stabilization Contractors: Shoreline stabilization contractors will be required to obtain additional professional assistance in assessing the hydrology and biology of the vicinity in which they will work and additional engineering design services as required.

Statewide there are three hundred eighty nine firms in SIC 1629 "Heavy Construction" with total employment of 4,095. This industry includes firms involved in all types of heavy construction other than building construction. Marine construction work listed in this category includes irrigation projects, flood control, channel construction, harbor and jetty construction, and pile driving and pier construction. Of these firms, sixteen are considered large firms. The total gross income for all firms in this industry was approximately \$1,311 million in 2001.

The additional professional costs described above would increase the cost of doing shoreline construction work. To the extent that all shoreline contractors will be required to perform increased assessment for any given location, the cost will likely be passed along to the project owner in terms of increased project costs. In that case, much of the additional costs may not be borne by shoreline contractors. However, if owners respond by reducing the amount of shoreline construction, contractors may experience reduced revenues. Moreover, revised SMP's may require facility siting in such a way as to minimize or eliminate the need for shoreline stabilization as a result of the guidelines. This could also reduce revenues for these firms.

The extent of the disproportionality will be determined by the size of the projects that small and large firms typically engage in and the magnitude of the increased assessment/mitigation costs. If larger firms tend to do larger projects, and larger projects require more extensive assessment, then this would tend to reduce the disproportionality among firms.

Agricultural Businesses: As noted previously, no particular increase in assessment/monitoring for agricultural land is likely to be required. However, cost impacts could be associated with any increase in land use restrictions on new agricultural endeavors (e.g. vegetative buffers, clearing restrictions, etc.)

Statewide there are 6,056 firms in the applicable SIC Major Groups 01 and 02 (see Appendix B) with total employment of 30,831. Of these firms, sixty-six would be considered large firms. Agriculture is an important part of the state's economy, with a total value of production of \$5.6 billion in 2001.

The extent of land use restrictions in agricultural shoreline areas is an area of considerable concern. The SMA guidelines impose no additional restrictions on existing agri-

cultural use. However, conversions to and from agriculture could be subject to increased vegetative buffers, clearing and grubbing standards, etc. The extent of the impact will be driven by the area of land located within the jurisdiction of the SMA owned by small and large firms that is to be converted, and the specific standard applied. The impact of land use restrictions is considered in a hypothetical scenario in Part 3.

Mining Businesses: Mining businesses may experience an increase in assessment/monitoring costs associated with the new guidelines. This will include additional engineering and environmental assessment costs. The exact costs will depend on the scope of services required which will tend to depend on the size of the area to be considered and the frequency which evaluation is required.

Statewide there are eighty-two firms in SIC 1442 "Construction Sand and Gravel" with total employment of 1,037. Of these firms, five would be considered large firms. The gross business income of these firms was \$155 million in 2001.

The ability of existing mining businesses to pass along additional compliance costs to consumers will depend on the spatial distribution of existing mining firms. If a majority of sand and gravel mines are located in the shoreline or are located far apart from one another, then it may be possible for these firms to raise their prices some to account for the increased costs. If only a small number of sand and gravel mines are located in the shoreline or they face substantial competition from nonshoreline mines, then they will have greater difficulty passing along increased costs in the form of increased prices. In this case, these firms will experience some reduction in profits. In general, for a given level of assessment costs, firms with less output would have to raise their prices more than large firms to recover these costs.

Assessing disproportionality among these firms requires knowing about the existing spatial distribution of mines, the extent and frequency of assessment/monitoring and the relation to firm size. If assessment and monitoring costs are directly correlated to land area, then it is a question as to whether large mining firms tend to utilize larger areas. For the data described in Appendix C, only one business identified in SIC 1442 "Construction Sand and Gravel" was identified in Yakima County and it was a large firm with sixty-eight employees. A general analysis of firm size and land area is presented in Part 3.

Water Transportation Businesses: Marinas and other water transportation facilities may be affected by the proposed guidelines, but the requirements would likely parallel the requirements for land developers in most cases.

Statewide there are 661 firms in SIC codes 3731, 3732, and 4412-4493 with total employment of 15,426. Several of these industries contain only small firms including 4493 (marinas). The gross business income of all the firms in these categories was \$2,078 million in 2001.

If the regulations developed for most marinas and similar facilities are similar in nature, they will likely be able to pass some of the additional costs along to their customers in the form of increased fees if there are not many good substitutes for these marine transportation industries. In the case of

marinas, the extent that moorage fees could be raised would be based on other opportunities customers have for moorage, out of water storage, etc. If these additional costs can be passed along, this would reduce the impact of increased assessment/monitoring costs on each industry.

The extent of any disproportionality among firms will depend on the extent of the shoreline work they do and how it changes under the revised guidelines. Floating facilities will likely not experience any significant changes. Increased costs associated with construction of associated facilities on land will depend on the extent of the impacts. If bigger firms develop bigger projects and assessment costs are proportional to the project size, then the disproportionality is reduced. A list of existing firms in these categories found in King and Yakima County is provided in Appendix D. An analysis of hypothetical land use restrictions on these firms is included in Part 3.

Part 3 - An Analysis of Scenarios Evaluating Whether the Guidelines Could Disproportionately Affect the Variety of Businesses Located Within Shorelines by Affecting Land Use: In addition to the compliance costs noted above, it is possible that revised environment designations and development standards could impact businesses located in the shoreline. These impacts would restrict the freedom of commercial and industrial property owners to use their land how they choose which could translate into lower property values. Addressing and ensuring a fair distribution of these potential impacts has been a significant input to developing the proposed SMA guidelines that are the subject of this SBEIS.

In an effort to understand how this might impact property owners, ecology developed a model based on the existing distribution of nonresidential shoreline parcels in several counties. These impacts ultimately depend on whether there are "scale effects" associated with shoreline land use (i.e. do bigger firms utilize proportionately bigger shoreline lots?) If this is the case, then bigger firms will, in general, be more extensively affected by new vegetation conservation standards, setbacks, etc.

To analyze the possible effects of changes in land use or value due to increased regulation involved development of a specific regulatory scenario. The scenario developed considered reduced land value associated with an increase in land use restrictions and is used to illustrate costs and the distribution of costs for development and redevelopment under the proposed rule. For the purposes of this study, the typical parcel considered will be located in a designated urban growth area, will not be subject to tidal overflow, not reasonably accessible for commercially navigable waters and subject to current regulations that designate the site for commercial or industrial use and that currently require a fifty foot setback.

While several alternatives are available that would meet the requirement for assuring no net loss of shoreline ecological functions, a simple analysis can use the hypothetical imposition of a vegetative buffer requirement. The necessary width of the buffer can be determined with a reasonably thorough knowledge of the specific shoreline and vicinity, but is likely to be between one hundred and one hundred fifty feet. For any given setback or buffer size, small parcels would lose

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a larger percentage of their potentially useable property, but there are more methods of addressing impacts to smaller parcels that would reduce the disproportionate impact of the regulations. Therefore for this analysis, it was assumed that a 10% reduction in usable area would occur for both small and large firms. This is a reasonable scenario assuming reduced useable land will likely result from a combination of setbacks, buffers, view corridors, and space for mitigation such as stormwater facilities. The reduction in land value associated with the reduction in useable land was used as an indicator of the regulatory impact.

It should be noted that this specific scenario may not be seen within any local jurisdiction. This scenario was created as a tool for evaluating potential impacts on business, so that ecology can use that information and ensure that the proposed rule avoids or minimizes disproportionate or unnecessary impacts. Assessment of the cost impacts to businesses necessarily involved creating this hypothetical scenario of a possible revised designation/standard within an individual jurisdiction's SMP. Under the proposed rules, however, any specific revised planning goals or development standard changes that occur will be determined by individual local governments through an extensive public involvement process.

Scenario Evaluation: To assess the impact of increased land use restrictions, characteristics of existing small and large firms were utilized. Mean and median parcel sizes obtained for a sample of existing firms (See Appendix C) were used in the analysis to represent typical parcels affected by the new regulations. These were then subject to imposition of a vegetative buffer that restricted the use of 10% of the land area. Businesses or owners of businesses associated with these parcels were assumed to experience foregone development value since their land will be restricted by the buffer requirement.

Calculation of a hypothetical foregone development value involved determining the value of land in the shoreline for the sample counties. It is well established that land located in shorelines immediately proximate to the water's edge command a premium in the market. Use of an unmodified average land value would ignore this effect and understate hypothetical foregone development value. Adjustments were made utilizing original analysis performed for the benefit-cost analysis (BCA). These adjusted values were then used to estimate the foregone development value.⁴

In the hypothetical scenario, development or redevelopment is restricted by the establishment of vegetative buffer areas by the local municipality. The buffers will reduce the amount of useable area for each parcel by 10%. For the purpose of this analysis, it was assumed that the value of the land within the 10% reduction area falls by 10%, 35% and 75% in both counties.⁵ The fact that the land can no longer be used to its fullest extent reduces the value of the land to the owner or lessee.⁶ The degree to which this restriction places a proportionate or disproportionate burden on small firms depends on the extent of the area restricted for small and large firms. Once this is known, it is relatively easy to calculate the impacts.

Data for King and Yakima counties were used to determine the average parcel size and the cost impacts for small and large firms. Larger firms tend to have larger parcels. However, utilizing the employment data, it can be shown that the square footage per employee falls with firm size (See Appendix C). Utilizing this information, and mean and median shoreline values for King and Yakima County,⁷ Table 6 was developed.

Table 6. Mean and median compliance cost per employee for alternative buffer requirements in King and Yakima County

Buffer Area Value Reduction (%)	(1) Small Firm Compliance Cost (\$/employee)	(2) Large Firm Compliance Cost (\$/employee)	Ratio (1)/(2)
Mean Values			
<i>King County</i>			
75% Reduction ⁸	\$37,650	\$4,612	8. 2
35% Reduction	\$17,570	\$2,152	8. 2
10% Reduction	\$5,020	\$615	8. 2
<i>Yakima County</i>			
75% Reduction	\$11,748	\$6,013	2. 0
35% Reduction	\$5,482	\$2,806	2. 0
10% Reduction	\$1,566	\$802	2. 0
Median Values			
<i>King County</i>			
75% Reduction	\$34,761	\$3,092	11. 2
35% Reduction	\$16,222	\$1,443	11. 2
10% Reduction	\$4,635	\$412	11. 2
<i>Yakima County</i>			
75% Reduction	\$13,647	\$3,171	4. 3
35% Reduction	\$6,369	\$1,480	4. 3
10% Reduction	\$1,820	\$423	4. 3

As can be noted in the table, impacts, as measured by \$/employee tend to be disproportionately borne by small firms. The disproportionate impact tends to be greater in more urban areas due to the types of land uses in those areas. In general, the impact on small firms in King County for this hypothetical scenario is eight - eleven times the impact on large firms. In Yakima County the impact on small firms tends to be two - four times the impact on large firms.

Uncertainty and Qualifying Statements: The analysis above suggests that the impacts of the proposed guidelines could disproportionately impact small businesses. This result is based on the specific scenario outlined above and specific data obtained for King and Yakima counties. As such, several qualifying statements should be mentioned, some of which substantially mitigate the potential for disproportionate impact. As noted previously, the scenario developed is one possible outcome of a local jurisdiction's SMP development process. Many other outcomes are possible that could alter the results presented above. However, for any development regulation or environment designation that affects all properties the same, the conclusions listed above should hold.⁹ Additionally, some industries likely to be present in the shoreline are not represented in the sample data.¹⁰ As

such, explicit conclusions based on data assessment for those industries cannot be formed.

Research has suggested that requiring buffers can lead to a net increase in land values.¹¹ That is, even though a parcel owner that is required to provide a buffer may suffer a loss, the surrounding properties might experience a gain through an increase in property values. The increased value results from greater visual and physical access to the shoreline. The existing research has been conducted on residential parcels, but it is not difficult to imagine the same could hold true in commercial areas, especially areas involved in providing services (e.g. restaurants, bars, etc.). To model this, a hypothetical scenario specifying the types of surrounding firms, employment levels, etc. would have to be created and existing spatial data would have to be obtained. This possibility was not explicitly modeled in this analysis. However, if the establishment of buffers did lead to net benefits to surrounding firms, the benefits would be disproportionately experienced by small firms for a fixed spatial distribution.¹²

Part 4 - Actions Taken to Reduce the Impact of the Rule on Small Business: The draft regulations include several statements of principle that were used for drafting the guidelines. Among these is the requirement that the guidelines assure compliance with all constitutional and statutory limitations on the regulation of private property. To this end, the guidelines require that development in the shoreline is obligated only to mitigate for the impacts to the environment caused by the proposed development. This assures generally that the mitigation measures and the associated costs bear a reasonable relationship to the scale and scope of the development. The mitigation requirements are also intended to allow significant opportunity for creative approaches and a wide variety of alternatives so that the mitigation associated with a particular development can be customized to fit the applicant's interests so long as the net effect is that the impacts are in fact mitigated. The guidelines also clarify their applicability in areas such as existing and on-going agricultural practices, or existing and established businesses, thereby reducing the costs associated with regulatory uncertainty.

Another feature of the guidelines that allows for flexibility is that they are designed primarily as a set of performance measures. This means that local government has latitude to design their local master program to fit local circumstances so long as the overall performance requirements are met. Thereby, local government has the ability to adjust their specific local approach to an issue in a manner that minimizes cost impacts to local business interests. Additionally, as noted above, the Shoreline Management Act requires that local government make provisions for conditional uses and variances. This provides the regulatory flexibility to adjust requirements when appropriate and necessary so long as the overall interests that the SMA was designed to protect are properly addressed.

As established in statute, the schedule for implementation of these guidelines allows local government up to eleven years to develop and adopt master programs after the projected adoption date of the regulation. This means that most businesses that may be impacted by the regulations will have

a substantial amount of time to adapt prior to actually being affected by the regulations.

In drafting the guidelines it was fully recognized that numerous other state and local laws currently exist which contain requirements that are consistent with the goals, and objectives of the SMA and which can contribute to satisfying the SMA's overall policy directives. With this in mind, the proposed guidelines wherever possible avoided creating new requirements of business where existing regulations could satisfy the need. This has the effect of eliminating potentially redundant and/or duplicative requirements that can and do have a cost to local government and indirectly to small businesses that must ultimately comply. The guidelines for example, promote the concept of adoption by reference (when updating local SMP's) of other existing land use regulations, such as local (GMA) critical areas ordinance provisions. Further, the guidelines often wholly or in part defer to the requirements of other existing laws, when addressing such commercial activities as forest practices and mining. Again this approach has the effect of reducing and mitigating the cost of compliance on small business.

Additionally, the cost of new restrictions applicable to certain shoreline small businesses, such as those that presently design and build bulkheads and related shoreline stabilization structures, is to some degree mitigated by the promotion of new ways of doing similar business. New approaches promoting the planting of native vegetation and bioengineered solutions to shoreline stabilization rather than traditional hardened bulkhead structures for example should create new opportunities for small business and mitigate for the cost of compliance in this sector.

Part 5 - How was Small Business Involved in the Development of the Rule? Ecology provided multiple opportunities for involvement by interested citizens, businesses, organizations and interest groups throughout the process of development of the guidelines. This has included public meetings, workshops and hearings, broad distribution of the various drafts and substantial opportunity for comment. A summary of the input received can be found in the "Responsiveness Summary: State Shoreline Master Program Guidelines" (Ecology, 2000). In this way, small business was involved in some of the drafting of the guidelines.

More recently, during the year 2002, small business worked directly with environmental and local government representatives, using professional mediators. As a result of that effort, a very broad coalition of interest groups (including groups representing small business) reached a consensus that ecology should proceed with rule making on the draft rules that are evaluated by this SBEIS. A list of those groups is available by examining court documents associated with the resolution of litigation arising out of a prior version of the guidelines.

The business groups and organizations included:

- Washington Aggregates and Concrete Association,
- Association of Washington Business (AWB),
- Associated General Contractors of Washington,
- Basta Marine, Inc.,
- Building Industry Association of Washington (BIAW),
- Independent Business Association of Washington,

- National Association of Industrial and Office Properties,
- National Federation of Independent Business,
- Northwest Marine Trade Association,
- Rose Ranch,
- United Property Owners of Washington,
- Washington Association of Realtors,
- Washington Cattleman's Association,
- Washington Contract Loggers Association,
- Washington State Farm Bureau,
- Washington State Grange.

Part 6 - List of Industries Required to Comply with the Proposed Guidelines: The Shoreline Management Act does not apply to any one group or type of business or industry but rather applies to any use made of the shorelines of the state. Taken statewide, all groups and types of business could probably be found to be represented somewhere in the shorelines, however, since shorelines comprise only about 2% of the state's total land base, very few businesses would be found predominantly in the shoreline. Certainly the various businesses that qualify as water dependent are affected most directly.

While the regulations generated by local government in response to the guidelines may affect any business located or conducted in the shorelines, as previously noted only those that propose to establish new uses or facilities or expand existing uses or facilities would likely be directly affected as the ongoing operation of existing business uses and facilities are generally allowed to continue.

As noted previously, the main sectors that will likely be affected will be the development business, shoreline stabilization contractors, agricultural business, and mining and water transportation. Based on this, individual SIC codes were evaluated and are listed in Appendix B. Also listed in Appendix D is the SIC codes for businesses found to be located on the shoreline for King and Yakima counties.

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3. Washington State Department of Ecology, Evaluation of Probable Benefits and Costs: Amended Shoreline Master Program Guidelines, Publication 00-06-043, (2000)
4. Washington State Department of Ecology, Proposed Shoreline Master Program Guidelines Final Environmental Impact Statement, Publication 00-06-020, (2000)
5. Washington State Department of Ecology, Responsiveness Summary State Shoreline Master Program Guidelines, Publication 00-06-042, (2000)

Appendix A

A Brief History of the Shoreline Master Program Guidelines Update

- 1990: Legislature passes GMA.

- 1991-94: In response to local government requests, ecology develops and implements the shorelands growth management project to deliver technical assistance to local governments targeted at SMA/GMA integration. While the SMA and GMA are found to be generally compatible, there are procedural, technical and legal questions that lead to a conclusion that the two statutes need some changes to assure they work together. This issue is presented to the Governor's Regulatory Reform Taskforce in 1994.

- 1995: In response to the Governor's Regulatory Reform Taskforce recommendations, legislature enacts ESHB 1724 which makes a variety of changes in both the SMA and GMA statutes and directs ecology to periodically review and update the SMA guidelines as a means of assuring consistency between SMA and GMA policies.

- 1996: Focus groups conducted in Everett, Longview, Moses Lake and Tacoma on guidelines issues. A statewide public opinion telephone survey of eight hundred forty residents, split equally east and west side, on shoreline management was also conducted to assess public views of shoreline management issues. Convened Shorelines Policy Advisory Group (ports, cities, counties, League of Women Voters, agriculture, business, forestry, tribal and environmental groups) which resulted in preparation of a draft of revised guidelines. Draft was circulated for comment to interested parties and local governments and four public hearings were held.

- January 1997: Local governments and ports ask ecology to put further Guidelines rule development "on hold" until Land Use Study Commission (LUSC) is consulted. Ecology agrees.

- July-October 1997: A broadly representative subcommittee of the LUSC holds seven public meetings to address SMA/GMA integration issues. The workgroup reached no consensus, but issued a report providing detailed directions for more "efficient and effective" shoreline regulations and related legislation and also documenting the need for updated guidelines.

- May 1998: With endorsement of the governor and the Joint Natural Resources Cabinet, ecology establishes the Shorelines Guidelines Commission, with representatives of cities, counties, tribes, ports, forestry, the environmental community, and water-dependent business. Agriculture and general business community were invited, but declined to participate. The guidelines commission holds nineteen public meetings and advises ecology on guidelines update; in the process the commission reviewed two different complete drafts of the guidelines and issues a final report on February 16, 1999, advising ecology to proceed with a broader rule-adoption process.

- 1999: Ecology officially releases formal draft rule, starts formal rule-adoption process. Four open house/public hearings held in May 1999. Local governments request more hearings and extension of comment deadline. Ecology agrees. Five more hearings held in July with comment period extended to August 4. Ecology receives 2,500 comment letters, and more than two hundred people testify at the nine hearings. After review of public comment, ecology terminates the formal rule adoption process and works to further clarify and fine tune the guidelines (rule) language.

- December 17, 1999-March 1, 2000: Held "informal" public comment period on new "working draft" guidelines, with emphasis on getting reaction from legislators and local government implementers. Working draft circulated to interested parties and posted on internet site. Received approximately 100 comment letters.

- September 1999-May 2000: Met with federal agencies and tribes to prepare an optional "Path B" of guidelines for local governments that choose to seek ESA liability protection through their shoreline programs; conducted "informal" review period on draft Path B with local and state agencies.

- August 1999-May 2000: Met extensively with legislators, local governments and interested groups at meetings, conferences and workshops to present information and gather comments on informal draft Path A and B rule language.

- Throughout the rule development process, interested parties were kept informed through a variety of means, including conference and in-the-field discussions, news releases, paid advertisements, newsletters (*Coastal Currents, Confluence, and SMP Update*) sent to all cities and counties and interested parties, and through a website. City and county associations and other groups also reported on progress in their own newsletters.

- June-August 2000: A second formal round of guidelines rule adoption is begun, commencing a sixty day comment period. The proposed rule contains two different paths: Path A responding to local governments that wanted more flexibility in how they met SMA standards; an optional Path B containing more prescriptive standards designed to support both SMA and ESA compliance. Public hearing notices were published in every county of the state for three weeks preceding each hearing. News releases were issued and the hearings were covered by newspapers and radio stations statewide. Notice of the hearings were sent to over 4,000 interested parties and advertised in ecology's *Confluence*, with a circulation of over 9,500 people. Eight public hearings were held in Pasco, Spokane, Wenatchee, Olympia, Raymond, Vancouver, Seattle, and Bellingham. Several hearings were broadcast on Television Washington (TVW). Guest editorial columns were printed in numerous newspapers across the state.

Ecology received more than 2,000 letters during the comment period.

- August-November 2000: Ecology compiles and analyzes public comments; completes a final environmental impact statement; implementation plan; benefit/cost analysis; and prepares a detailed response to all comments received.

- November 29, 2000: After reviewing all related materials Director Fitzsimmons adopts new shoreline management guidelines. Ecology releases responsiveness summary and related materials to all interested parties.

- January 2001: The guidelines rule is appealed to the Shoreline Hearings Board by numerous parties and individuals including a broad coalition of business and local government interests and environmental organizations.

- August 27, 2001: The State of Washington Shorelines Hearings Board invalidated the new guidelines rule for exceeding the statutory authority of the SMA (by implementing the federal ESA) and for failure to comply with certain procedural requirements of the Administrative Procedure Act, most notably required public review of economic analyses and related materials. The SHB's action remanded the rule to ecology for reoption consistent with the board's decision. The decision did not invalidate ecology's repeal of the previous guidelines - thus leaving the state with no shoreline guidelines, even though the existing SMA statute and local shoreline programs remain in effect.

- January-December 2002: The governor and attorney general convene mediation talks aimed at reaching a legal settlement. The parties all filed appeals to the SHB ruling to preserve their standing in superior court. The parties appointed representatives to a steering committee that did the negotiating. Former State Supreme Court Justice Richard Guy and Bill Ross served as mediators.

- December 2002: The negotiating parties reach agreement on: New draft guidelines to propose for rule making; a package of legislation to propose in 2003 that replaces the existing two-year update schedule for local governments with a phased-in schedule from 2005 to 2014; provision of \$2 million in the upcoming 2003-05 budget for the first wave of cities and counties to get started, with additional funding proposed to complete the update schedule; and terms for concluding the lawsuit.

**Appendix B
SIC Codes¹³**

<i>Code</i>	<i>Description</i>	<i>No. Firms (<50 Employees)</i>	<i>Employment</i>	<i>No. Firms (>50 Employees)</i>	<i>Employment</i>
0111	Wheat Farming	1,107	1,066		
0115	Corn Farming	29	57		
0119	Cash Grains (NEC) ¹⁴	214	209		
0134	Irish Potatoes	126	1,034	6	413
0139	Field Crops, Except Cash Grains (NEC)	532	2,254	8	722
0161	Vegetables and Melons	330	971	6	390
0171	Berry Crops	231	783		
0172	Grape Farming	306	1,615	8	927

PROPOSED

Appendix B
SIC Codes¹³

<i>Code</i>	<i>Description</i>	<i>No. Firms (<50 Employees)</i>	<i>Employment</i>	<i>No. Firms (>50 Employees)</i>	<i>Employment</i>
0175	Deciduous Tree Fruits	2,752	13,039	42	4,276
0179	Fruits and Tree Nuts (NEC)	21	169		
0181	Ornamental Floriculture and Nursery Products	303	3,219	14	1,733
0182	Food Crops Grown Under Cover	24	332		
0191	General Farms, Primarily Crops	232	1,270	8	785
0211	Beef Cattle Feedlots	26	606		
0212	Beef Cattle, Except Feedlots	247	383		
0213	Hogs	5	5		
0214	Sheep and Goats	10	26		
0241	Dairy Farms	539	3,607		
0251	Broiler, Fryer and Roaster Chickens	19	55		
0252	Chicken Eggs	27	569		
0254	Poultry Hatcheries	4	89		
0259	Poultry and Eggs (NEC)	4	22		
0271	Fur Bearing Animals and Rabbits	14	38		
0272	Horses and Other Equines	90	175		
0273	Animal Aquaculture	36	197		
0279	Animal Specialties (NEC)	45	132		
0291	General Farms, Primarily Livestock & Animal Specialties	6	15		
1442	Construction Sand and Gravel	77	711	5	326
1629	Heavy Construction (NEC)	373	2,044	16	2,051
3731	Ship Building and Repairing	48	554	9	946
3732	Boat Building and Repairing	216	1,711	13	1,107
4412	Deep Sea Foreign Transportation of Freight	17	253		
4424	Deep Sea Domestic Transportation of Freight	9	387	8	763
4449	Water Transportation of Freight	18	326		
4481	Deep Sea Transportation of Passengers, Except by Ferry	4	1,238		
4482	Ferries	23	1,654		
4489	Water Transportation of Passengers	18	229		
4491	Marine Cargo Handling Services	68	2,582	16	1,731
4492	Towing and Tugboat Services	22	698	4	305
4493	Marinas	101	578		
4499	Water Transportation Services	67	364		
6552	Land Subdividers and Developers	364	1,749	5	334

Appendix C

Determination of Existing Mean/Median Land Areas by Firm Size

To aid in assessment of the effects of revisions to the shoreline regulations, ecology obtained data from several sources. The initial step involved obtaining data from assessor's roles for a few sample counties. The counties selected included King County, an urban county in Western Washington, and Yakima County, a predominantly agricultural county in Eastern Washington. These counties were selected both to represent the East and West of Washington and because the required data could be relatively easily obtained. In general, King County tends to be more urban than most of the west-side counties but has most of the commercial endeavors located in Western Washington. Yakima County is predominantly rural, with a small number of more urban areas. It possesses many of the characteristics of the more rural eastern counties. Though the following analysis is based explicitly on these two counties, and it is likely that specific cases may vary from the ones examined here, the data was used to be representative of the types of ownership and commercial endeavors located elsewhere in the state.

The methodology for each county was similar. Assessor's data was obtained for all land zoned commercial in the county.¹⁵ This data included identifier, land use, square footage, and waterfront length and attributes in some cases.¹⁶ Waterfront locations for Yakima County are not kept in the assessor's database and so they were first determined utilizing Yakima's geographic information system (GIS) and then merged with assessor's information. This data was then merged with other data that indicated taxpayer name and address. This was used to identify land ownership which might differ from the observed land use. This data was further analyzed and government entities were removed. Lastly, employment data was obtained for each parcel owner that could be identified from the Washington Employment Secu-

rity Department. This yielded the SIC code and employment levels¹⁷ for each identified firm allowing ecology to determine small from large firms and analyze parcel sizes. Each group was then statistically evaluated to determine mean and median lot sizes. These mean and median lot sizes were then used in the impact evaluation described in Part 3.

Data Analysis: The data obtained for King County included a unique identifier, property name, parcel size and in some cases waterfront length and attributes. This data was merged with a separate file that contained taxpayer identification and address to establish parcel ownership. All publicly owned parcels and privately owned parcels owned by out of state companies were identified and removed.¹⁸ The remaining dataset contained approximately six hundred individual records. This data was then individually linked with employment data that was either publicly available at the Washington State Employment Security Department's (ESD's) website or confidential data obtained from ESD.

In general, there are both small and large firms in the dataset. There are also a significant number of individual property owners. These are generally not classified as "business entities" but since they involve ownership of commercial land and likely have as the main objective the "purpose of making a profit" were included in the analysis (separately) below. All parcels owned by individual property owners were counted as having one employee.¹⁹ Many corporations could not be located in either employment database. These include a large number of "LLC's" and some corporations and trusts. It is likely that these corporations are small firms (i.e. have less than fifty employees). However, they were not included in the analysis that follows.

Figure 1 indicates the size class and frequency for properties identified for King County.²⁰ As can be seen the largest size class for King County is individual property owners followed by small firms and large firms.

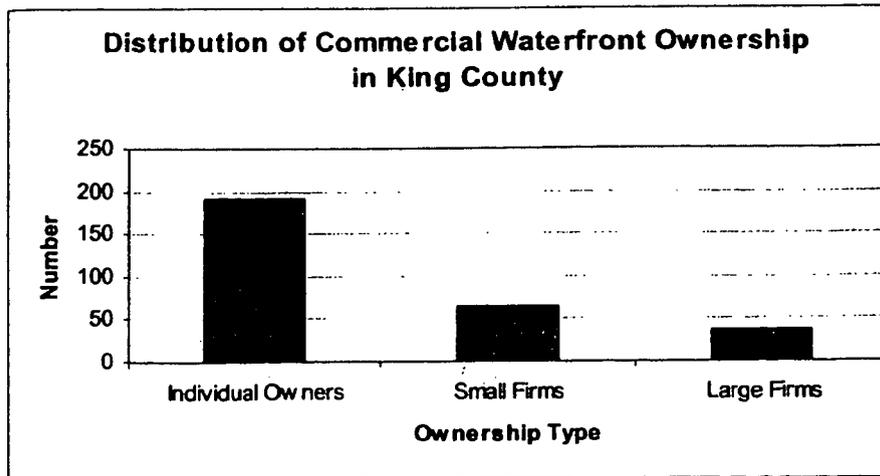


Figure 1. Distribution of privately-owned waterfront property in King County

PROPOSED

Analysis of the data revealed the typical property holdings for the different classes. Table 1 shows the results. As can be seen, larger firms generally have larger parcels whether measured by mean or median parcel size. The mean property size for large firms is approximately five times the mean small size parcel. The median property size for large firms is 2.1 times the mean small parcel size.²¹

Table 1. Ownership and mean and median parcel size for waterfront properties in King County

Ownership	Mean Area (sq. ft.)	Median Area (sq. ft.)
Individual Owners	173,600	104,671
Small Firms	251,001	115,870
Large Firms	1,248,374	241,146

There are approximately thirty-six large firms in the sample and sixty-five small firms that could be identified. However, incorporating the individual property owners and the unidentified firms adds over three hundred businesses. As such, this study uses all of the largest businesses in the sample to describe the businesses that are required to comply. In some cases, the exact number of employees is not known, but only the size range. In this case, a conservative assumption

using the size class was utilized. This was used to generate the firm size and SIC codes listed in Appendix D.

Data for Yakima County was also obtained. GIS records for parcels located along the Yakima, Naches and Tieton rivers were evaluated and all waterfront parcels along these rivers with associated parcel sizes, taxpayer record, and use code were provided. This data was analyzed to remove all residential parcels and all vacant residential land and then individually matched with employment data using the databases described above to determine the number of employees and SIC codes. The predominant form of shoreline ownership in Yakima is also individual ownership. However, most of the land is classified for agricultural use and so is likely to be utilized for the purpose of making a profit. As such, it was also included separately in the analysis that follows. All publicly owned parcels and parcels owned by out of state companies were removed. All parcels that could not be identified as individually owned or corporate owned were not included in the analysis.²²

In Yakima County a similar distribution of land ownership by firm size as King County exists for the waterfront parcels considered. From Figure 2 we can see that the distribution of ownership indicates that individual ownership is the predominant type of ownership followed by small firms and large firms.

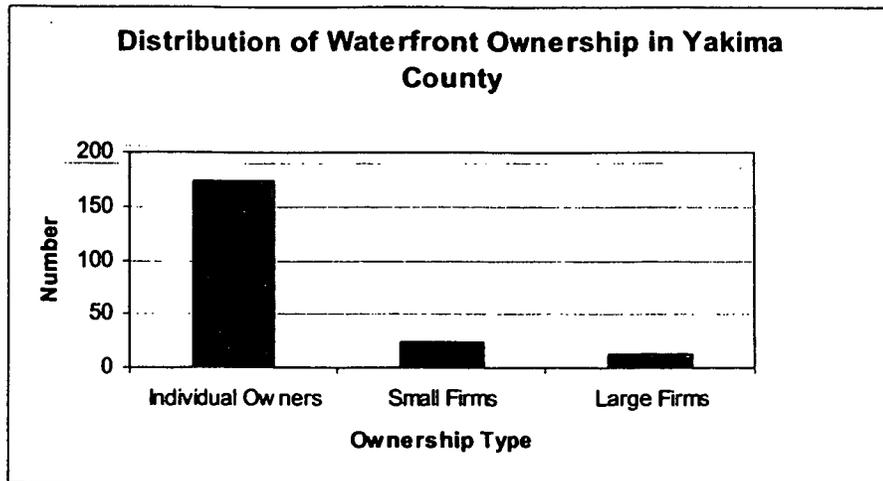


Figure 2. Distribution of privately-owned waterfront property in Yakima County

Analysis of the data revealed the typical property holdings for the different classes. The results are presented in Table 2. As can be seen, larger firms generally own larger parcels whether measured by mean or median size. The mean large firm parcel size is approximately 6.3 times the mean small size parcel. The median parcel size for large firms is 2.3 times the median small parcel size.²³

Table 2. Ownership and mean and median parcel size for waterfront properties in Yakima County

Ownership	Mean Area (sq. ft.)	Median Area (sq. ft.)
Individual Owners	1,110,479	701,282
Small Firms	1,879,648	1,273,750
Large Firms	11,866,447	2,874,934

PROPOSED

There are approximately thirteen large firms in the sample and twenty-five small firms that were identified. However, incorporating the individual property owners and the unidentified firms adds approximately one hundred ninety businesses. As such, the study uses all of the largest businesses in the sample to describe the businesses that are required to comply. The firm size and SIC codes are listed in Appendix D.

The economic impacts can be evaluated in several ways. For the purposes of this analysis, the impacts were determined using "cost per employee." As such, the relevant land area measure is not the overall parcel size, but the parcel size per employee for the two types of firms. The data was divided into small and large businesses and the mean and median parcel size/employee were calculated. This involved utilizing the total area provided and dividing by the number of employees for each firm. Table 3 displays the square footage/employee distribution for King and Yakima counties. The mean and median parcel size/employee are important since they form the basis for calculating the reduction in land values and other cost impacts associated with the increased requirements on businesses.²⁴

Table 3. Mean Square footage per employee for businesses located in King and Yakima County Shorelines

	King County (SF/Employee)	Yakima County (SF/Employee)
Small Businesses*	25,100	156,637
Large Businesses	3,075	80,179

* Small business excluding individual ownership

From Tables 1 and 2, it was determined that large firms tend to have larger parcels, but as can be seen from above,

when employment is incorporated, larger firms have smaller parcels on a per employee basis. For King County, the ratio of employee/square foot between small and large businesses is approximately 8.2. For Yakima County the ratio is 2.0. In addition, the actual square footage/employee tends to be larger for Yakima County for all business classifications than for King County. This is likely due to the different commercial enterprises and associated land use in those two locations. Table 4 evaluates the median square footage/median employee values.

Table 4. Median square footage/employee for businesses located in King and Yakima County shorelines

	King County (SF/Employee)	Yakima County (SF/Employee)
Small Businesses*	23,174	181,964
Large Businesses	2,061	42,278

* Small business excluding individual ownership

For King County, the median ratio of employee/square foot for small and large businesses is approximately 11.2. For Yakima County the ratio is 4.3. As can be seen, the median square footage/employee values are smaller than the mean values, but the ratios are greater. These increased values represent the elimination of outlying large firms from the statistic. The square footage/employee again tends to be larger for Yakima County than for King County.

The impact on businesses will be measured on a per employee basis. As such, the fact that smaller firms have greater area per employee implies that any land use regulation applied equally to small and large businesses will likely be disproportionately borne by small firms. The mean and median parcel areas described above were utilized as the basis for the cost impact evaluation provided in Part 3.

Appendix D

Employment Breakdown by Sector-King and Yakima County Shorelines²⁵

SIC	King County				Yakima County			
	Units (<50)	Employees (<50)	Units (>50)	Employees (>50)	Units (<50)	Employees (<50)	Units (>50)	Employees (>50)
0115					1	1		
0139					1	25	1	50
0175					11	72	2	104
0191					1	11		
0211							1	205
0212					1	2		
0291					1	35		
0723							2	177
0811					1	1	1	50
0851					1	1		
1442							1	68
1521	2	43	1	50				
1542			1	109				
1611			1	115			1	100
2033							1	653
2091								
2092			2	1065				
2099			1	50				

Appendix D

Employment Breakdown by Sector-King and Yakima County Shorelines²⁵

SIC	King County				Yakima County			
	Units (<50)	Employees (<50)	Units (>50)	Employees (>50)	Units (<50)	Employees (<50)	Units (>50)	Employees (>50)
2421	1	25	1	3091			1	62
2836								
2899	1	10						
3273			1	85			1	68
3462			1	100				
3565					1	12		
3592			1	219				
3731	1	36	4	1542				
3732			1	334				
4424			1	73				
4489								
4491	1	1	1	110				
4492	2	40	2	602				
4493	9	28						
4911			1	1941				
5032			1	267				
5146								
5148							1	203
5172								
5311			1	1000				
5411			1	82	1	7		
5812	2	57						
5983	1	13						
6021	1	20						
6091	1	43						
6282	1	19						
6411	1	20						
6512	4	57						
6513	2	26						
6515	2	12						
6531	5	48						
6552	4	24						
6719								
7011	1	10			1	44		
7032	2	6						
7033					1	1		
7361	1	1						
7521	1	22	1	137				
7992	1	10						
7997	4	6	3	233				
7999	2	6	1	250	1	21		
8051			1	250				
8059								
8211					1	22		
8322			2	815				
8331			1	191				
8361	1	19						
8399			1	50				
8611	1	1						
8641	3	7			1	35		
8661	3	25			1	2		
9999	1	5						

PROPOSED

¹ Under RCW 19.85.030(1), an agency is not required to do an SBEIS if its rule does not impose more than minor costs on businesses in an industry. Originally, before all local governments had shoreline master program regulations, the guidelines in chapter 173-16 WAC affected permit decisions and thus may have imposed costs on an industry. Today, local governments have SMPs and the guidelines do not impose costs on business. Notwithstanding this potential reason for not doing an SBEIS, ecology is developing and issuing this SBEIS to ensure that its guidelines have considered this information, and to fulfill its agreement with interested business and environmental groups to conduct an SBEIS process.

² All summary employment data for Part 2 is from the Washington State Employment Security Department, September 2002.

³ Gross income data is from Department of Revenue, 2001. Agricultural value of production data is from Washington Agricultural Statistics, 2002. These industry statistics for firm number, employment and income include all firms in the industry not just those that own or develop properties in the shoreline areas.

⁴ These adjustment premiums may underestimate or overestimate the proximity premiums in any one area, but since the comparison between small and large firms is done for the same location, they will only affect the compliance cost estimates not the extent of the disproportionate impact.

⁵ The BCA prepared for these guidelines utilized 75% for incorporated cities and 35% for rural areas. The data included both incorporated and unincorporated areas.

⁶ In the case of leased land subject to a new restriction, a renegotiation of the lease may occur to account for the new restriction. If this does not occur, then some of the impact could be borne by the lessee instead of the owner.

⁷ For this analysis \$20/square foot for King County and \$1/square foot for Yakima County were used.

⁸ "75% Reduction" means a 75% reduction in land value for the 10% of area now restricted in use. Reductions in land value do not include offsetting reductions in property tax burden.

⁹ This would also hold for assessment/monitoring costs that were proportional to land area.

¹⁰ For example, no shellfish harvesters were present in the data.

¹¹ Brown and Pollakowski, (1977).

¹² Small firms would benefit more (on a \$/employee basis) from a given increase in land value due to setbacks on a neighboring piece of property.

¹³ All firm number and employment data were taken from the Washington State Employment Security Department, Labor Market and Economic Analysis, September 2002. Data represents totals for these industries statewide.

¹⁴ (NEC)-Not Elsewhere Classified.

¹⁵ Yakima County provided all shoreline parcels. Use codes were used to identify which parcels were commercial. All developed and vacant residential land was removed prior to the analysis.

¹⁶ King County has fields for shoreline length and attributes. However, it is only "active" in a small percentage (approximately 17%) of cases.

¹⁷ In most cases, the exact number of employees was obtained if the data existed at all. In a small number of cases, only employment ranges were available.

¹⁸ Removing out-of-state firms was done due to the difficulty in obtaining employment data on firms located throughout the United States.

¹⁹ This includes cases where multiple parties were listed as the taxpayers of record.

²⁰ One hundred sixty-eight nonindividual property owners could not be found in either source of data. The impact of this is discussed in what follows. If they are indeed small firms, the ownership distribution would change such that small firms would be the predominant form of ownership for waterfront commercial parcels in King County.

²¹ The median is not sensitive to extreme values and so would not be affected by extremely large parcels owned by large firms.

²² This amounted to eighteen entities that could not be identified.

²³ The median is not sensitive to extreme values and so would be less affected by extremely large parcels owned by large firms.

²⁴ Small and large firms were not further separated by SIC code because there were not enough firms in most categories to provide a systematic comparison.

²⁵ Employment values based on 2000 data provided by Info USA, Omaha, NE, and 2002 data provided by the Washington Employment Security Department. In some cases, only size classes were available and the minimum value for the size class was utilized.

A copy of the statement may be obtained by writing to Shorelines SBEIS Request, P.O. Box 47600, Olympia, WA 98504-7600, e-mail shorelineguidelines@ecy.wa.gov, fax (360) 407-6902.

RCW 34.05.328 applies to this rule adoption. A draft cost benefit analysis is available for review and comment. A copy of the draft document may be obtained by writing to Shorelines CBA Request, P.O. Box 47600, Olympia, WA 98504-7600, e-mail shorelineguidelines@ecy.wa.gov, fax (360) 407-6902.

Hearing Location: Seattle Center, Shaw Room, 305 Harrison Street, Seattle, WA 98109, on Tuesday, August 5; at the Public Utility District of Cowlitz County, Auditorium, 961 12th Avenue, Longview, WA 98632, on Wednesday, August 6; at the Washington State University, Phase I Classroom, 668 North River Point, Spokane, WA 99202, on Tuesday, August 12; and at the Chelan County Public Utility District No. 1, 327 North Wenatchee Avenue, Wenatchee, WA 98801, on Wednesday, August 13.

All locations: Open House at 5:30 p.m.; and public hearing at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Debi Irwin by July 28, 2003, (360) 407-7291, 711 (TTY) or 1-800-833-8973 (TTY).

Submit Written Comments to: Shoreline Guidelines Comments, P.O. Box 47600, Olympia, WA 98504-7600, e-mail shorelineguidelines@ecy.wa.gov, fax (360) 407-6902, by 5:00 p.m., September 15, 2003.

Date of Intended Adoption: December 1, 2003.

June 16, 2003

Tom Fitzsimmons

Director

AMENDATORY SECTION (Amending Order 95-17a, filed 11/29/00, effective 12/30/00)

WAC 173-26-010 Authority and purpose. The provisions of this chapter implement the requirements of chapter 90.58 RCW, the Shoreline Management Act of 1971. RCW 90.58.200 authorizes the adoption of rules by the department as necessary and appropriate to carry out the provisions of the act. RCW 90.58.080 directs local governments to develop and administer local shoreline master programs for regulation of uses on shorelines of the state. Such local programs should be integrated with other local government systems for administration and enforcement of land use regulations. RCW 36.70A.480 provides that the goals and policies contained in a local shoreline master program shall be considered an element of the local comprehensive plan required by the Growth Management Act. All other portions of the local shoreline master program, including the use regulations, are considered a part of the local development regulations required by the Growth Management Act.

This chapter is drafted to also reflect RCW 90.58.050 which provides that the Shoreline Management Act is intended to be a cooperative program between local govern-

ment and the state. It is the intent of this chapter to provide minimum procedural requirements as necessary to comply with the statutory requirements while providing latitude for local government to establish procedural systems based on local needs and circumstances.

Pursuant to the Shoreline Management Act, the department must approve master programs prepared by local governments or adopt them by rule consistent with the act. In order to facilitate this process, Part I of this chapter establishes a recordkeeping system for the department and defines the contents of the state master program. Part II sets forth procedures for approving and adopting master programs and amendments thereto. Part ~~((s))~~ III ~~((and IV))~~ comprises the guidelines pursuant to RCW 90.58.060 and provides ~~((alternative approaches to))~~ guidance for developing the content of shoreline master programs. Part ~~((V))~~ IV - addresses the requirements of the state Ocean Resources Management Act.

AMENDATORY SECTION (Amending Order 95-17a, filed 11/29/00, effective 12/30/00)

WAC 173-26-020 Definitions. As used herein, the following words and phrases shall have the following meanings:

(1) "Act" means the Washington State Shoreline Management Act, chapter 90.58 RCW.

~~(2) ("Adaptive management" means the modification of management practices to address changing conditions and new knowledge. Adaptive management is an approach that incorporates monitoring and research to allow projects and activities, including projects designed to produce environmental benefits, to go forward in the face of some uncertainty regarding consequences. The key provision of adaptive management is the responsibility to change adaptively in response to new understanding or information after an action is initiated.~~

~~(3))~~ "Adoption by rule" means an official action by the department to make a local government shoreline master program effective through rule consistent with the requirements of the Administrative Procedure Act, chapter 34.05 RCW, thereby incorporating the adopted shoreline master program or amendment into the state master program.

(3)(a) "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;

(b) "Agricultural products" includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary

products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

(c) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to:

(i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;

(ii) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands;

(iii) Farm residences and associated equipment, lands, and facilities; and

(iv) Roadside stands and on-farm markets for marketing fruit or vegetables; and

(d) "Agricultural land" means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

(4) "Amendment" means a revision, update, addition, deletion, and/or reenactment to an existing shoreline master program.

(5) "Approval" means an official action by a local government legislative body agreeing to submit a proposed shoreline master program or amendments to the department for review and official action pursuant to this chapter; or an official action by the department to make a local government shoreline master program effective, thereby incorporating the approved shoreline master program or amendment into the state master program.

~~(6) ("Aquatic" means pertaining to those areas waterward of the ordinary high water mark.~~

~~(7) "Bank full width" means the horizontal projection of bank full depth to the stream bank. Bank full depth means the elevation of the water surface of a stream flow having a return period of approximately 1.5 years measured from the line of maximum depth of the stream or thalweg. Most river channels are bordered by a relatively flat area or valley floor. When the water fills the channel completely, or is at bank full stage, this surface is level with the flood plain. The stream cuts down or builds up as climate and watershed conditions change because there is a new relation between discharge and sediment transport and storage. The channel will erode or modify its flood plain in response to changes in discharge and sediment. The former flood plain it had been constructing is thus abandoned. An abandoned flood plain is called a terrace. While a terrace is flooded on occasion, the active flood plain is frequently flooded by discharges that occur approximately every 1.5 years to 2.0 years in the annual flood series. In those valleys that narrowly confine the channel such that no~~

flood plain can be built, this bank full stage projection still applies.

((8))) (8) "Channel migration zone (CMZ)" means the ((lateral extent of likely movement along a stream reach with evidence of active stream channel movement over the past one hundred years. Evidence of active movement can be provided from aerial photos or specific channel and valley bottom characteristics. A time frame of one hundred years was chosen because aerial photos and field evidence can be used to evaluate movement in this time frame. Also, this time span typically represents the time it takes to grow mature trees that can provide functional large woody debris to most streams. In large meandering rivers a more detailed analysis can be conducted to relate bank erosion processes and the time required to grow trees that function as stable large woody debris.

With the exception of shorelands in or meeting the criteria for the "natural" and "rural conservancy" environments, areas separated from the active channel by legally existing artificial channel constraints that limit bank erosion and channel avulsion without hydraulic connections shall not be considered within the CMZ. All areas, including areas within the "natural" and "rural conservancy" environments, separated from the natural channel by legally existing structures designed to withstand the 100-year flood shall not be considered within the CMZ. A tributary stream or other hydraulic connection allowing T&E species fish passage draining through a dike or other constricting structure shall be considered part of the CMZ)) area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

((9))) (9) "Department" means the state department of ecology.

((10))) (10) "Developed shorelines" means those shoreline areas that are characterized by existing development or permanent structures located within shoreline jurisdiction.

((11))) (11) "Development regulations" means the controls placed on development or land uses by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a shoreline master program other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

((12))) (12) "Document of record" means the most current shoreline master program officially approved or adopted by rule by the department for a given local government jurisdiction, including any changes resulting from appeals filed pursuant to RCW 90.58.190.

((13))) (13) "Drift cell," "drift sector," or "littoral cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

((14))) (14) "Ecological functions" or "shoreline functions" means the ((physical, chemical, and biological processes that contribute to the proper maintenance of the aquatic and terrestrial environments that constitute the shore-

line ecosystem. Ecological functions relevant to specific shoreline ecological systems include, but are not limited to:

(a) Riverine:

▲ Hydrologic processes: Maintaining a natural range of flow variability, sideflow and overflow channel functions, reducing peak flows and downstream erosion, and helping to maintain base flows.

▲ Water quality: Temperature; removing excessive nutrients and toxic compounds.

▲ Dynamic sediment processes: Sediment removal, stabilization, transport, deposition, and providing spawning gravels.

▲ Habitat for: Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

▲ Hyporheic functions: Water quality, water storage, vegetation base, and sediment storage.

(b) Lacustrine:

▲ Water quality: Removing excessive nutrients and toxic compounds and removing and/or stabilizing sediments.

▲ Habitat for: Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

(c) Marine:

▲ Water quality: Removing excessive nutrients and toxic compounds.

▲ Dynamic sediment processes: Sediment removal, stabilization, transport, deposition, and providing spawning gravels.

▲ Wave attenuation:

▲ Habitat for: Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

(d) Wetlands:

▲ Flood attenuation:

▲ Water quality: Removing excessive sediment, nutrients, and toxic compounds.

▲ Ground water recharge:

▲ Maintenance of base flows:

▲ Nutrient filtering:

▲ Habitat for: Threatened, endangered, and priority species (whatever they may be in the jurisdiction); aquatic and shoreline dependent birds, invertebrates, and mammals; amphibians; and anadromous and resident native fish. Habitat functions may include, but are not limited to, shade, litter and woody debris recruitment, refugia, and food production.

When used in Part IV, sections 270 through 350 of this chapter, the term "ecological functions" shall include all functions necessary for properly functioning condition for T&E species.

~~(15) "Ecologically altered shorelines" means those shorelines where humans have directly or indirectly modified the vegetation or shoreline configuration in a manner that significantly influences or reduces the natural shoreline functions.~~

~~(16) "Ecologically intact shorelines" means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In unmanaged forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.~~

~~Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.~~

~~The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.~~

~~(17) "Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition and specific chemical processes (e.g., flocculation) that shape landforms within a specific shoreline ecosystem and determine both the types of habitat that are present and the associated ecological functions and their processes. Ecosystem-wide processes include, but are not limited to:~~

~~(a) Riverine processes: Landform and channel erosion; sediment transport and load in channel and overbank; channel dynamics, including channel gradation and migration; and changes in channel form during flooding.~~

~~(b) Lacustrine, tidal, wave, and current processes: Wave erosion (including refraction), littoral drift, vertical transport, and tidal erosion and deposition)) work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-200 (2)(c).~~

~~(13) "Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.~~

~~((18)) (14) "Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:~~

~~(a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar~~

circumstances that such approaches are currently available and likely to achieve the intended results;

~~(b) The action provides a reasonable likelihood of achieving its intended purpose; and~~

~~(c) The action does not physically preclude achieving the project's primary intended legal use.~~

~~In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.~~

~~In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames. For the provisions of Part IV, this evaluation shall give special consideration and precedence to protecting PFC for T&E species.~~

~~((19)) (15) "Fill" means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.~~

~~((20)) (16) "Flood plain" is synonymous with one hundred-year ((floodplain)) flood plain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the act.~~

~~((21)) (17) "Geotechnical report" or "geotechnical analysis" means a scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers ((c)) or geologists((9)) who have professional expertise about the regional and local shoreline geology and processes.~~

~~((22)) (18) "Grading" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.~~

~~((23)) (19) "Guidelines" means those standards adopted by the department to implement the policy of chapter 90.58 RCW for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.~~

~~((24) "In-stream structure" means a structure placed by humans within a stream or river waterward of the bank full width that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood con-~~

trol, transportation, utility service transmission, fish habitat enhancement, or other purpose.

~~((25))~~ (25) "Lacustrine" means pertaining to a lake.

~~((26))~~ (26) "Letter of exemption" means a letter or other official certificate issued by a local government to indicate that a proposed development is exempted from the requirement to obtain a shoreline permit as provided in WAC 173-27-050. Letters of exemption may include conditions or other provisions placed on the proposal in order to ensure consistency with the Shoreline Management Act, this chapter, and the applicable master program.

~~((27))~~ (20) "Local government" means any county, incorporated city or town which contains within its boundaries shorelines of the state subject to chapter 90.58 RCW.

~~((28))~~ (21) "Marine" means pertaining to tidally influenced waters, including oceans, sounds, straits, marine channels, and estuaries, including the Pacific Ocean, Puget Sound, Straits of Georgia and Juan de Fuca, and the bays, estuaries and inlets associated therewith.

~~((29))~~ (22) "May" means the action is acceptable, provided it conforms to the provisions of this chapter.

~~((30))~~ "Mitigation" or "mitigation sequencing" means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

(f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

~~((31))~~ (23) "Must" means a mandate; the action is required.

~~((32))~~ "Nonpoint pollution" means pollution that enters any waters of the state from any dispersed land-based or water-based activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

~~((33))~~ (24) "Nonwater-oriented uses" means those uses that are not water-dependent, water-related, or water-enjoyment.

~~((34))~~ (25) "Priority habitat" means a habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important wildlife habitat;
- Important fish or wildlife seasonal range;

- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

~~((35))~~ (26) "Priority species" means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POLM-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

~~((36))~~ "Properly functioning condition" or "PFC" means conditions that create and sustain natural habitat-affecting processes (such as sediment routing, riverine community succession, precipitation runoff patterns, a natural range of flow variability and channel migration) over the full range of environmental variation and that support productivity at a viable population level of T&E species. The term "properly functioning condition" indicates a level of performance for a subset of the more broadly defined "ecological functions," reflecting what is necessary for the recovery of T&E species.

~~((37))~~ (27) "Provisions" means policies, regulations, standards, guideline criteria or environment designations.

PROPOSED

~~((38)) (28) "Restore," "restoration" or "ecological restoration" means the ((significant)) reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures ((such as)) including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not ((necessarily)) imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.~~

~~((39) "Restore" means to significantly reestablish or upgrade shoreline ecological functions through measures such as revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic sediments. To restore does not necessarily imply returning the shoreline area to aboriginal or pre-European settlement conditions.~~

~~(40) "Riverine" means pertaining to a river or stream system, including associated lakes and wetlands.~~

~~((41)) (29) "Shall" means a mandate; the action must be done.~~

~~((42)) (30) "Shoreline areas" and "shoreline jurisdiction" means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.~~

~~((43)) (31) "Shoreline master program" or "master program" means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.~~

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations~~((; and))~~.

~~((44)) (32) "Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.~~

~~((45) "Shoreline property" means an individual property wholly or partially within shoreline jurisdiction.~~

~~(46)) (33) "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.~~

~~((47) "Significant ecological impact" means an effect or consequence of a human-caused action if any of the following apply:~~

~~(a) The action degrades or changes an ecological function or ecosystem-wide process to such a degree that the ecosystem can no longer perform the function at levels within its natural range of variability or that the performance of the function falls outside the range needed to maintain the integrity of other ecological processes in shoreline areas. As used in this definition, the normal range of variability does not include alterations caused by catastrophic events.~~

~~(b) Scientific evidence or objective analysis indicates that the action could cause degradation or change to those ecological functions or ecosystem-wide processes described in (a) of this subsection under foreseeable conditions.~~

~~(c) Scientific evidence indicates that the action could contribute to degradation or change to ecological functions or ecosystem-wide processes described in (a) of this subsection as part of cumulative impacts, due to similar actions that are occurring or are likely to occur.~~

~~Significant ecological impacts do not include impacts that are inconsequential to attaining the objectives of the act or to the protection and restoration of shoreline ecological functions or ecosystem-wide processes.~~

~~(48)) (34) "Significant vegetation removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.~~

~~((49) "Site potential tree height" means the average height, at age one hundred years, of the tallest mature native tree species that is capable of growing in the soils found at the site and for which height measurements are noted in the soil survey reports published by the natural resource conservation service and other sources. Each local natural resource conservation service field office maintains the surveys for its area.~~

~~(a) West of the Cascade summit, the site potential tree height will generally be based on either Douglas fir or western hemlock, unless based on another species due to local conditions. East of the summit, the species could be ponderosa pine, lodgepole pine, western larch, Englemann spruce, subalpine fir, grand fir, or Douglas fir.~~

~~(b) For sites that historically supported cottonwoods as the largest tree, the site potential tree height generally is the average height, at age seventy-five years, of a black cottonwood tree growing under those site conditions.~~

~~(50)) (35) "State master program" means the cumulative total of all shoreline master programs and amendments thereto approved or adopted by rule by the department.~~

~~((51) "Storm water" means that portion of precipitation that does not normally percolate into the ground or evaporate but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or constructed infiltration facility.~~

~~(52)) (36) "Substantially degrade" means to cause significant ecological impact.~~

~~((53) "Threatened and endangered species" or "T&E species" means those native species that are listed in rule by the Washington state department of fish and wildlife pursuant to RCW 77.12.020 as threatened (WAC 232-12-011) or endangered (WAC 232-12-014), or that are listed as threatened or endangered species under the federal Endangered Species Act, 16 U.S.C. 1533.~~

~~(54)) (37) "Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water but is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-~~

dependent uses include ship cargo terminal loading areas, fishing, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities, ~~((hydroelectric dams,))~~ and surface water intake ~~((, and sewer outfalls))~~.

~~((55))~~ (38) "Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Primary water-enjoyment uses may include, but are not limited to:

- Parks with activities enhanced by proximity to the water;
- Piers and other improvements that facilitate public access to shorelines of the state;
- Restaurants with water views and public access improvements;
- Museums with an orientation to shoreline topics;
- Aquariums;
- Scientific/ecological reserves;
- Resorts with uses open to the public and public access to the shoreline; and any combination of those uses listed above.

~~((56))~~ (39) "Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

~~((57))~~ (40) "Water quality" means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

~~((58))~~ (41) "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Water-related uses include manufacturing of ship parts large enough that transportation becomes a significant factor in the product's cost, professional services serving primarily water-dependent uses, and storage of water-transported foods. Other examples of water-related uses include the

warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker, and upland log storage for water-borne transportation.

In addition, the definitions and concepts set forth in RCW 90.58.030, as amended, and implementing rules shall also apply as used herein.

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.

PART III

GUIDELINES(~~—DEFAULT APPROACH~~)

NEW SECTION

WAC 173-26-171 Authority, purpose and effects of guidelines. (1) **Authority.** RCW 90.58.090 authorizes and directs the department to adopt "guidelines consistent with RCW 90.58.020, containing the elements specified in RCW 90.58.100" for development of local master programs for regulation of the uses of "shorelines" and "shorelines of statewide significance." RCW 90.58.200 authorizes the department and local governments "to adopt such rules as are necessary and appropriate to carry out the provisions of" the Shoreline Management Act.

(2) **Purpose.** The general purpose of the guidelines is to implement the "cooperative program of shoreline management between local government and the state." Local government shall have the primary responsibility for initiating the planning required by the Shoreline Management Act and "administering the regulatory program consistent with the policy and provisions" of the act. "The department shall act primarily in a supportive and review capacity with an emphasis on providing assistance to local government and insuring compliance with the policy and provisions" of the act. RCW 90.58.050.

In keeping with the relationship between state and local governments prescribed by the act, the guidelines have three specific purposes: To assist local governments in developing master programs; to serve as standards for the regulation of shoreline development in the absence of a master program along with the policy and provisions of the act and, to be used along with the policy of RCW 90.58.020, as criteria for state review of local master programs under RCW 90.58.090.

(3) **Effect.**

(a) The guidelines are guiding parameters, standards, and review criteria for local master programs. The guidelines allow local governments substantial discretion to adopt master programs reflecting local circumstances and other local regulatory and nonregulatory programs related to the policy goals of shoreline management as provided in the policy statements of RCW 90.58.020, WAC 173-26-175 and 173-26-180. The policy of RCW 90.58.020 and these guidelines constitute standards and criteria to be used by the department in reviewing the adoption and amendment of local master programs under RCW 90.58.090 and by the growth management hearings board and shorelines hearings board adjucat-

ing appeals of department decisions to approve, reject, or modify proposed master programs and amendments under RCW 90.58.190.

(b) Under RCW 90.58.340, the guidelines, along with the policy of the act and the master programs, also shall be standards of review and criteria to be used by state agencies, counties, and public and municipal corporations in determining whether the use of lands under their respective jurisdictions adjacent to the shorelines of the state are subject to planning policies consistent with the policies and regulations applicable to shorelines of the state.

(c) The guidelines do not regulate development on shorelines of the state in counties and cities where approved master programs are in effect. In local jurisdictions without approved master programs, development on the shorelines of the state must be consistent with the policy of RCW 90.58.020 and the applicable guidelines under RCW 90.58.140.

(d) As provided in RCW 90.58.060, the department is charged with periodic review and update of these guidelines to address technical and procedural issues that arise as from the review of shoreline master programs (SMPs) as well as compliance of the guidelines with statutory provisions. As a part of this process, ecology will compile information concerning the effectiveness and efficiency of these guidelines and the master programs adopted pursuant thereto with regard to accomplishment of the policies of the Shoreline Management Act and the corresponding principles and specific requirements set forth in these guidelines.

NEW SECTION

WAC 173-26-176 General policy goals of the act and guidelines for shorelines of the state. (1) The guidelines are designed to assist local governments in developing, adopting, and amending master programs that are consistent with the policy and provisions of the act. Thus, the policy goals of the act are the policy goals of the guidelines. The policy goals of the act are derived from the policy statement of RCW 90.58.020 and the description of the elements to be included in master programs under RCW 90.58.100.

(2) The policy goals for the management of shorelines harbor potential for conflict. The act recognizes that the shorelines and the waters they encompass are "among the most valuable and fragile" of the state's natural resources. They are valuable for economically productive industrial and commercial uses, recreation, navigation, residential amenity, scientific research and education. They are fragile because they depend upon balanced physical, biological, and chemical systems that may be adversely altered by natural forces (earthquakes, volcanic eruptions, landslides, storms, droughts, floods) and human conduct (industrial, commercial, residential, recreation, navigational). Unbridled use of shorelines ultimately could destroy their utility and value. The prohibition of all use of shorelines also could eliminate their human utility and value. Thus, the policy goals of the act relate both to utilization and protection of the extremely valuable and vulnerable shoreline resources of the state. The act calls for the accommodation of "all reasonable and appropriate uses" consistent with "protecting against adverse effects to the public health, the land and its vegetation and

wildlife, and the waters of the state and their aquatic life" and consistent with "public rights of navigation." The act's policy of achieving both shoreline utilization and protection is reflected in the provision that "permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, in so far as practical, any resultant damage to the ecology and environment of the shoreline area and the public's use of the water." RCW 90.58.020.

(3) The act's policy of protecting ecological functions, fostering reasonable utilization and maintaining the public right of navigation and corollary uses encompasses the following general policy goals for shorelines of the state. The statement of each policy goal is followed by the statutory language from which the policy goal is derived.

(a) **The utilization of shorelines for economically productive uses that are particularly dependent on shoreline location or use.**

RCW 90.58.020:

"The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration and preservation."

"It is the policy of the state to provide for the management of the shorelines by planning for and fostering all reasonable and appropriate uses."

"Uses shall be preferred which are...unique to or dependent upon use of the state's shoreline."

"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state."

RCW 90.58.100:

"(2) The master programs shall include, when appropriate, the following:

(a) An economic development element for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state; . . .

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shorelines use element.

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land; . . ."

(b) The utilization of shorelines and the waters they encompass for public access and recreation.

RCW 90.58.020:

"The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

"Alterations of the natural conditions of the shorelines of the state, in those limited instances when authorized, shall be given priority for. . . development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state."

RCW 90.58.100:

"(2) The master programs shall include, when appropriate, the following:

(b) A public access element making provisions for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas; . . ."

"(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same."

(c) Protection and restoration of the ecological functions of shoreline natural resources.

RCW 90.58.020:

"The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization protection, restoration, and preservation."

"This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life. . ."

"To this end uses shall be preferred which are consistent with the control of pollution and prevention of damage to the natural environment."

"Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area. . ."

RCW 90.58.100:

"(2) The master programs shall include, when appropriate, the following:

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values; . . ."

(d) Protection of the public right of navigation and corollary uses of waters of the state.

RCW 90.58.020:

"This policy contemplates protecting. . . generally public rights of navigation and corollary rights incidental thereto."

"Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, . . . any interference with the public's use of the water."

(e) The protection and restoration of buildings and sites having historic, cultural and educational value.

RCW 90.58.100:

"(2) The master programs shall include, when appropriate, the following:

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values; . . ."

(f) Planning for public facilities and utilities correlated with other shorelines uses.

RCW 90.58.100:

"(2) The master programs shall include, when appropriate, the following:

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element."

(g) Prevention and minimization of flood damages.

RCW 90.58.100:

"(2) The master programs shall include, when appropriate, the following:

(h) An element that gives consideration to the statewide interest in the prevention and minimization of flood damages."

(h) Recognizing and protecting private property rights.

RCW 90.58.020:

"The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; . . . and, therefore coordinated planning is necessary. . . while, at the same time, recognizing and protecting private rights consistent with the public interest."

(i) Preferential accommodation of single-family uses.

RCW 90.58.020:

"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single-family residences and their appurtenant structures. . ."

RCW 90.58.100:

"(6) Each master program shall contain standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and

nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single-family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single-family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment."

(j) Coordination of shoreline management with other relevant local, state, and federal programs.

RCW 90.58.020:

"In addition..." the legislature "... finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state."

"...and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state. . ."

"There is, therefor, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

RCW 90.58.100:

"In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered."

NEW SECTION

WAC 173-26-181 Special policy goals of the act and guidelines for shorelines of statewide significance. In accordance with RCW 90.58.020, the "department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."

NEW SECTION

WAC 173-26-186 Governing principles of the guidelines. The governing principles listed below are intended to articulate a set of foundational concepts that underpin the guidelines, guide the development of the planning policies and regulatory provisions of master programs, and provide direction to the department in reviewing and approving master programs. These governing principles, along with the policy statement of RCW 90.58.020, other relevant provisions of the act, the regulatory reform policies and provisions of RCW 34.05.328, and the policy goals set forth in WAC 173-26-175 and 173-26-180 shall be used to interpret any ambiguous provisions and reconcile any conflicting provisions of the guidelines.

(1) The guidelines are subordinate to the act. Any inconsistency between the guidelines and the act must be resolved in accordance with the act.

(2) The guidelines are intended to reflect the policy goals of the act, as described in WAC 173-26-175 and 173-26-180.

(3) All relevant policy goals must be addressed in the planning policies of master programs.

(4) The planning policies of master programs (as distinguished from the development regulations of master programs) may be achieved by a number of means, only one of which is the regulation of development. Other means, as authorized by RCW 90.58.240, include, but are not limited to: The acquisition of lands and easements within shorelines of the state by purchase, lease, or gift, either alone or in concert with other local governments; and accepting grants, contributions, and appropriations from any public or private agency or individual. Additional other means may include, but are not limited to, public facility and park planning, watershed planning, voluntary salmon recovery projects and incentive programs.

(5) The policy goals of the act, implemented by the planning policies of master programs, may not be achievable by development regulation alone. Planning policies should be pursued through the regulation of development of private property only to an extent that is consistent with all relevant constitutional and other legal limitations (where applicable, statutory limitations such as those contained in chapter 82.02 RCW and RCW 43.21C.060) on the regulation of private property. Local government should use a process designed to assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights. A process established for this purpose, related to the constitutional takings limitation, is set forth in a publication entitled,

"State of Washington, Attorney General's Recommended Process for Evaluation of Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property," first published in February 1992. The attorney general is required to review and update this process on at least an annual basis to maintain consistency with changes in case law by RCW 36.70A.370.

(6) The territorial jurisdictions of the master program's planning function and regulatory function are legally distinct. The planning function may, and in some circumstances must, look beyond the territorial limits of shorelines of the state. RCW 90.58.340. The regulatory function is limited to the territorial limits of shorelines of the state, RCW 90.58.140 (1), as defined in RCW 90.58.030(2).

(7) The planning policies and regulatory provisions of master programs and the comprehensive plans and development regulations, adopted under RCW 36.70A.040 shall be integrated and coordinated in accordance with RCW 90.58.-340, 36.70A.480, 34.05.328 (1)(h), and section 1, chapter 347, Laws of 1995.

(8) Through numerous references to and emphasis on the maintenance, protection, restoration, and preservation of "fragile" shoreline "natural resources," "public health," "the land and its vegetation and wildlife," "the waters and their aquatic life," "ecology," and "environment," the act makes protection of the shoreline environment an essential state-wide policy goal consistent with the other policy goals of the act. It is recognized that shoreline ecological functions may be impaired not only by shoreline development subject to the substantial development permit requirement of the act but also by past actions, unregulated activities, and development that is exempt from the act's permit requirements. The principle regarding protecting shoreline ecological systems is accomplished by these guidelines in several ways, and in the context of related principles. These include:

(a) Local government is guided in its review and amendment of local master programs so that it uses a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by affected shorelines.

(b) Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions.

(i) Local master programs shall include regulations and mitigation standards ensuring that each permitted development will not cause a net loss of ecological functions of the shoreline; local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(ii) Local master programs shall include regulations ensuring that exempt development in the aggregate will not cause a net loss of ecological functions of the shoreline.

(c) For counties and cities containing any shorelines with impaired ecological functions, master programs shall include goals and policies that provide for restoration of such impaired ecological functions. These master program provisions shall identify existing policies and programs that contribute to planned restoration goals and identify any addi-

tional policies and programs that local government will implement to achieve its goals. These master program elements regarding restoration should make real and meaningful use of established or funded nonregulatory policies and programs that contribute to restoration of ecological functions, and should appropriately consider the direct or indirect effects of other regulatory or nonregulatory programs under other local, state, and federal laws, as well as any restoration effects that may flow indirectly from shoreline development regulations and mitigation standards.

(d) Local master programs shall evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the act. To ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, master programs shall contain policies, programs, and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts among development opportunities. Evaluation of such cumulative impacts should consider:

(i) Current circumstances affecting the shorelines and relevant natural processes;

(ii) Reasonably foreseeable future development and use of the shoreline; and

(iii) Beneficial effects of any established regulatory programs under other local, state, and federal laws.

It is recognized that methods of determining reasonably foreseeable future development may vary according to local circumstances, including demographic and economic characteristics and the nature and extent of local shorelines.

(e) The guidelines are not intended to limit the use of regulatory incentives, voluntary modification of development proposals, and voluntary mitigation measures that are designed to restore as well as protect shoreline ecological functions.

(9) To the extent consistent with the policy and use preference of RCW 90.58.020, this chapter (chapter 173-26 WAC), and these principles, local governments have reasonable discretion to balance the various policy goals of this chapter, in light of other relevant local, state, and federal regulatory and nonregulatory programs, and to modify master programs to reflect changing circumstances.

(10) Local governments, in adopting and amending master programs and the department in its review capacity shall, to the extent feasible, as required by RCW 90.58.100(1):

"(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered."

Under the GMA, the designation and protection of critical areas, including those located in shorelines of the state, shall include best available science pursuant to RCW 36.70A.172.

(11) In reviewing and approving local government actions under RCW 90.58.090, the department shall insure that the state's interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.020.

NEW SECTION

WAC 173-26-191 Master program contents. (1) Master program concepts. The following concepts are the basis for effective shoreline master programs.

(a) **Master program policies and regulations.** Shoreline master programs are both planning and regulatory tools. Master programs serve a planning function in several ways. First, they balance and integrate the objectives and interests of local citizens. Therefore, the preparation and amending of master programs shall involve active public participation, as called for in WAC 173-26-201(3). Second, they address the full variety of conditions on the shoreline. Third, they consider and, where necessary to achieve the objectives of chapter 90.58 RCW, influence planning and regulatory measures for adjacent land. For jurisdictions planning under chapter 36.70A RCW, the Growth Management Act, the requirements for integration of shoreline and adjacent land planning are more specific and are described in WAC 173-26-191 (1)(e). Fourth, master programs address conditions and opportunities of specific shoreline segments by classifying the shorelines into "environment designations" as described in WAC 173-26-211.

The results of shoreline planning are summarized in shoreline master program policies that establish broad shoreline management directives. The policies are the basis for regulations that govern use and development along the shoreline. Some master program policies may not be fully attainable by regulatory means due to the constitutional and other legal limitations on the regulation of private property. The policies may be pursued by other means as provided in RCW 90.58.240. Some development requires a shoreline permit prior to construction. A local government evaluates a permit application with respect to the shoreline master program policies and regulations and approves a permit only after determining that the development conforms to them. The regulations apply to all uses and development within shoreline jurisdiction, whether or not a shoreline permit is required, and are implemented through an administrative process established by local government pursuant to RCW 90.58.050 and 90.58.140 and enforcement pursuant to RCW 90.58.210 through 90.58.230.

(b) **Master program elements.** RCW 90.58.100(2) states that the master programs shall, when appropriate, include the following elements:

"(a) An economic development element for the location and design of industries, industrial projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of shorelines of the state;

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values;

(h) An element that gives consideration to the statewide interest in the prevention and minimization of flood damages; and

(i) Any other element deemed appropriate or necessary to effectuate the policy of this chapter."

The Growth Management Act (chapter 36.70A RCW) also uses the word "element" for discrete components of a comprehensive plan. To avoid confusion, "master program element" refers to the definition in the Shoreline Management Act as cited above. Local jurisdictions are not required to address the master program elements listed in the Shoreline Management Act as discrete sections. The elements may be addressed throughout master program provisions rather than used as a means to organize the master program.

(c) **Shorelines of statewide significance.** The Shoreline Management Act identifies certain shorelines as "shorelines of statewide significance" and raises their status by setting use priorities and requiring "optimum implementation" of the act's policy. WAC 173-26-251 describes methods to provide for the priorities listed in RCW 90.58.020 and to achieve "optimum implementation" as called for in RCW 90.58.090 (4).

(d) **Shoreline environment designations.** Shoreline management must address a wide range of physical condi-

tions and development settings along shoreline areas. Effective shoreline management requires that the shoreline master program prescribe different sets of environmental protection measures, allowable use provisions, and development standards for each of these shoreline segments.

The method for local government to account for different shoreline conditions is to assign an environment designation to each distinct shoreline section in its jurisdiction. The environment designation assignments provide the framework for implementing shoreline policies and regulatory measures specific to the environment designation. WAC 173-26-211 presents guidelines for environment designations in greater detail.

(e) Consistency with comprehensive planning and other development regulations. Shoreline management is most effective and efficient when accomplished within the context of comprehensive planning. For cities and counties planning under the Growth Management Act, chapter 36.70A RCW requires mutual and internal consistency between the comprehensive plan elements and implementing development regulations (including master programs). The requirement for consistency is amplified in WAC 365-195-500:

"Each comprehensive plan shall be an internally consistent document and all elements shall be consistent with the future land use map. This means that each part of the plan should be integrated with all other parts and that all should be capable of implementation together. Internal consistency involves at least two aspects:

(1) Ability of physical aspects of the plan to coexist on the available land.

(2) Ability of the plan to provide that adequate public facilities are available when the impacts of development occur (concurrency).

Each plan should provide mechanisms for ongoing review of its implementation and adjustment of its terms whenever internal conflicts become apparent."

The Growth Management Act also calls for coordination and consistency of comprehensive plans among local jurisdictions. RCW 36.70A.100 states:

"The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues."

Since master program goals and policies are an element of the local comprehensive plan, the requirement for internal and intergovernmental plan consistency may be satisfied by watershed-wide or regional planning.

Legislative findings provided in section 1, chapter 347, Laws of 1995 (see RCW 36.70A.470 notes) state:

"The legislature recognizes by this act that the growth management act is a fundamental building block of regulatory reform. The state and local governments have invested considerable resources in an act that should serve as the integrating framework for all other land-use related laws. The growth management act provides the means to effectively combine certainty for development decisions, reasonable

environmental protection, long-range planning for cost-effective infrastructure, and orderly growth and development."

And RCW 36.70A.480(1) (The Growth Management Act) states:

"For shorelines of the state, the goals and policies of the shoreline management act as set forth in RCW 90.58.020 are added as one of the goals of this chapter as set forth in RCW 36.70A.020 without creating an order of priority among the fourteen goals. The goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations."

Furthermore, RCW 36.70A.481 states:

"Nothing in RCW 36.70A.480 shall be construed to authorize a county or city to adopt regulations applicable to shorelands as defined in RCW 90.58.030 that are inconsistent with the provisions of chapter 90.58 RCW."

The Shoreline Management Act addresses the issue of consistency in RCW 90.58.340, which states:

"All state agencies, counties, and public and municipal corporations shall review administrative and management policies, regulations, plans, and ordinances relative to lands under their respective jurisdictions adjacent to the shorelines of the state so as the [to] achieve a use policy on said land consistent with the policy of this chapter, the guidelines, and the master programs for the shorelines of the state. The department may develop recommendations for land use control for such lands. Local governments shall, in developing use regulations for such areas, take into consideration any recommendations developed by the department as well as any other state agencies or units of local government. [1971 ex.s. c 286 § 34.]"

Pursuant to the statutes cited above, the intent of these guidelines is to assist local governments in preparing and amending master programs that fit within the framework of applicable comprehensive plans, facilitate consistent, efficient review of projects and permits, and effectively implement the Shoreline Management Act. It should be noted the ecology's authority under the Shoreline Management Act is limited to review of shoreline master programs based solely on consistency with the SMA and these guidelines. It is the responsibility of the local government to assure consistency between the master program and other elements of the comprehensive plan and development regulations.

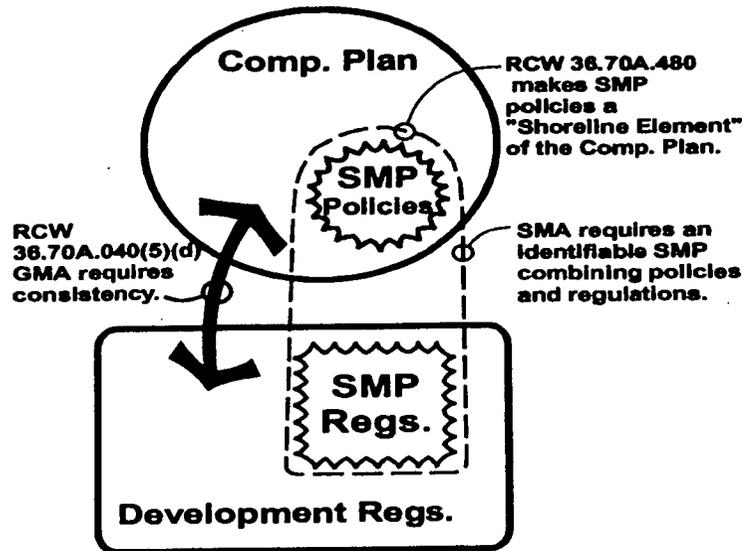


Figure 1. Relationship of master program to comprehensive plan and local development regulations for governments planning under RCW 36.70A.
(This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

Several sections in these guidelines include methods to achieve the consistency required by both the Shoreline Management Act and the Growth Management Act.

First, WAC 173-26-191 (2)(b) and (c) describe optional methods to integrate master programs and other development regulations and the local comprehensive plan.

Second, WAC 173-26-221 through 173-26-251 translate the broad policy goals in the Shoreline Management Act into more specific policies. They also provide a more defined policy basis on which to frame local shoreline master program provisions and to evaluate the consistency of applicable sections of a local comprehensive plan with the Shoreline Management Act.

Finally, WAC 173-26-211(3) presents specific methods for testing consistency between shoreline environment designations and comprehensive plan land use designations.

(2) **Basic requirements.** This chapter describes the basic components and content required in a master program. A master program must be sufficient and complete to implement the Shoreline Management Act and the provisions of this chapter. A master program shall contain policies and regulations as necessary for reviewers to evaluate proposed shoreline uses and developments for conformance to the Shoreline Management Act. As indicated in WAC 173-26-020, for this chapter: The terms "shall," "must," and "are required" and the imperative voice, mean a mandate; the action is required; the term "should" means that the particular action is required unless there is a demonstrated, sufficient reason, based on a policy of the Shoreline Management Act and this chapter, for not taking the action; and the term "may" indicates that the action is within discretion and authority, provided it satisfies all other provisions in this chapter.

(a) **Master program contents.** Master programs shall include the following contents:

(i) **Master program policies.** Master programs shall provide clear, consistent policies that translate broad state-wide policy goals set forth in WAC 173-26-176 and 173-26-181 into local directives. Policies are statements of intent directing or authorizing a course of action or specifying criteria for regulatory and nonregulatory actions by a local government. Master program policies provide a comprehensive foundation for the shoreline master program regulations, which are more specific, standards used to evaluate shoreline development. Master program policies also are to be pursued and provide guidance for public investment and other non-regulatory initiatives to assure consistency with the overall goals of the master program.

Shoreline policies shall be developed through an open comprehensive shoreline planning process. For governments planning under the Growth Management Act, the master program policies are considered a shoreline element of the local comprehensive plan and shall be consistent with the planning goals of RCW 36.70A.020, as well as the act's general and special policy goals set forth in WAC 173-26-176 and 173-26-181.

At a minimum, shoreline master program policies shall:

(A) Be consistent with state shoreline management policy goals and specific policies listed in this chapter and the policies of the Shoreline Management Act;

(B) Address the master program elements of RCW 90.58.100;

(C) Include policies for environment designations as described in WAC 173-26211. The policies shall be accompanied by a map or physical description of the schematic environment designation boundaries in sufficient detail to compare with comprehensive plan land use designations; and

(D) Be designed and implemented in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(ii) **Master program regulations.** RCW 90.58.100 states:

"The master programs provided for in this chapter, when adopted or approved by the department shall constitute use regulations for the various shorelines of the state."

In order to implement the directives of the Shoreline Management Act, master program regulations shall:

(A) Be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies of this chapter, and local master program policies;

(B) Include environment designation regulations that apply to specific environments consistent with WAC 173-26-210;

(C) Include general regulations, use regulations that address issues of concern in regard to specific uses, and shoreline modification regulations; and

(D) Design and implement regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(iii) **Administrative provisions.**

(A) **Statement of applicability.** The Shoreline Management Act's provisions are intended to provide for the management of all development and uses within its jurisdiction, whether or not a shoreline permit is required. Many activities that may not require a substantial development permit, such as clearing vegetation or construction of a residential bulkhead, can, individually or cumulatively, adversely impact adjacent properties and natural resources, including those held in public trust. Local governments have the authority and responsibility to enforce master program regulations on all uses and development in the shoreline area. There has been, historically, some public confusion regarding the Shoreline Management Act's applicability in this regard. Therefore, all master programs shall include the following statement:

"All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act, and this master program."

In addition to the requirements of the SMA, permit review, implementation, and enforcement procedures affecting private property must be conducted in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property. Administrative procedures should include provisions insuring that these requirements and limitations are considered and followed in all such decisions.

While the master program is a comprehensive use regulation applicable to all land and water areas within the jurisdiction described in the act, its effect is generally on future development and changes in land use. Local government may find it necessary to regulate existing uses to avoid severe harm to public health and safety or the environment and in doing so should be cognizant of constitutional and other legal limitations on the regulation of private property. In some cir-

cumstances existing uses and properties may become non-conforming with regard to the regulations and master programs should include provisions to address these situations in a manner consistent with achievement of the policy of the act and consistent with constitutional and other legal limitations.

(B) Conditional use and variance provisions.

RCW 90.58.100(5) states:

"Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3)."

All master programs shall include standards for reviewing conditional use permits and variances which conform to chapter 173-27 WAC.

(C) **Administrative permit review and enforcement procedures.**

RCW 90.58.140(3) states:

"The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government."

Local governments may include administrative, enforcement, and permit review procedures in the master program or the procedures may be defined by a local government ordinance separate from the master program. In either case, these procedures shall conform to the Shoreline Management Act, specifically RCW 90.58.140, 90.58.143, 90.58.210 and 90.58.220 and to chapter 173-27 WAC.

Adopting review and enforcement procedures separate from the master program allows local governments to more expeditiously revise their shoreline permit review procedures and to integrate them with other permit processing activities.

(D) **Documentation of project review actions and changing conditions in shoreline areas.**

Master programs or other local permit review ordinances addressing shoreline project review shall include a mechanism for documenting all project review actions in shoreline areas. Local governments shall also identify a process for periodically evaluating the cumulative effects of authorized development on shoreline conditions. This process could involve a joint effort by local governments, state resource agencies, affected Indian tribes, and other parties.

(b) **Including other documents in a master program by reference.** Shoreline master program provisions sometimes address similar issues as other comprehensive plan elements and development regulations, such as the zoning code and critical area ordinance. For the purposes of completeness and consistency, local governments may include other locally adopted policies and regulations within their master pro-

PROPOSED

grams. For example, a local government may include its critical area ordinance in the master program to provide for compliance with the requirements of RCW 90.58.090(4), provided the critical area ordinance is also consistent with this chapter. This can ensure that local master programs are consistent with other regulations.

Shoreline master programs may include other policies and regulations by referencing a specific, dated edition. When including referenced regulations within a master program, local governments shall ensure that the public has an opportunity to participate in the formulation of the regulations or in their incorporation into the master program, as called for in WAC 173-26-201 (3)(b)(i). In the approval process the department will review the referenced development regulation sections as part of the master program. A copy of the referenced regulations shall be submitted to the department with the proposed master program or amendment. If the development regulation is amended, the edition referenced within the master program will still be the operative regulation in the master program. Changing the referenced regulations in the master program to the new edition will require a master program amendment.

(c) **Incorporating master program provisions into other plans and regulations.** Local governments may integrate master program policies and regulations into their comprehensive plan policies and implementing development regulations rather than preparing a discrete master program in a single document. Master program provisions that are integrated into such plans and development regulations shall be clearly identified so that the department can review these provisions for approval and evaluate development proposals for compliance. RCW 90.58.120 requires that all adopted regulations, designations, and master programs be available for public inspection at the department or the applicable county or city. Local governments shall identify all documents which contain master program provisions and which provisions constitute part of the master program. Clear identification of master program provisions is also necessary so that interested persons and entities may be involved in master program preparation and amendment, as called for in RCW 90.58.130.

Local governments integrating all or portions of their master program provisions into other plans and regulations shall submit to the department a listing and copies of all provisions that constitute the master program. The master program shall also be sufficiently complete and defined to provide:

- (i) Clear directions to applicants applying for shoreline permits and exemptions; and
- (ii) Clear evaluation criteria and standards to the local governments, the department, other agencies, and the public for reviewing permit applications with respect to state and local shoreline management provisions.

(d) **Multijurisdictional master program.** Two or more adjacent local governments are encouraged to jointly prepare master programs. Jointly proposed master programs may offer opportunities to effectively and efficiently manage natural resources, such as drift cells or watersheds, that cross jurisdictional boundaries. Local governments jointly prepar-

ing master programs shall provide the opportunity for public participation locally in each jurisdiction, as called for in WAC 173-26-201 (3)(b), and submit the multijurisdictional master program to the department for approval.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 173-26-201 Comprehensive process to prepare or amend shoreline master programs. (1) **Applicability.** This section outlines a comprehensive process to prepare or amend a shoreline master program. Local governments shall incorporate the steps indicated if one or more of the following criteria apply:

- (a) The master program amendments being considered represent a significant modification to shoreline management practices within the local jurisdiction, they modify more than one environment designation boundary, or significantly add, change or delete use regulations;
- (b) Physical shoreline conditions have changed significantly, such as substantial changes in shoreline use or priority habitat integrity, since the last comprehensive master program amendment;
- (c) The master program amendments being considered contain provisions that will affect a substantial portion of the local government's shoreline areas;
- (d) There are substantive issues that must be addressed on a comprehensive basis. This may include issues such as salmon recovery, major use conflicts or public access;
- (e) The current master program and the comprehensive plan are not mutually consistent;
- (f) There has been no previous comprehensive master program amendment since the original master program adoption; or
- (g) Monitoring and adaptive management indicate that changes are necessary to avoid loss of ecological functions.

Other revisions that do not meet the above criteria may be made without undertaking this comprehensive process provided that the process conforms to the requirements of WAC 173-26-030 through 173-26-160.

All master program amendments are subject to approval by the department as provided in RCW 90.58.090 (3) and (4).

(2) **Basic concepts.**

(a) **Use of scientific and technical information.** To satisfy the requirements for the use of scientific and technical information in RCW 90.58.100(1), local governments shall incorporate the following two steps into their master program development and amendment process.

First, identify and assemble the most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern. The context, scope, magnitude, significance, and potential limitations of the scientific information should be considered. At a minimum, make use of and, where applicable, incorporate all available scientific information, aerial photography, inventory data, technical assistance materials, manuals and services from reliable sources of science. Local governments should also contact relevant state agencies, universities,

affected Indian tribes, port districts and private parties for available information. While adequate scientific information and methodology necessary for development of a master program should be available, if any person, including local government, chooses to initiate scientific research with the expectation that it will be used as a basis for master program provisions, that research shall use accepted scientific methods, research procedures and review protocols. Local governments are encouraged to work interactively with neighboring jurisdictions, state resource agencies, affected Indian tribes, and other local government entities such as port districts to address technical issues beyond the scope of existing information resources or locally initiated research.

Local governments should consult the technical assistance materials produced by the department. When relevant information is available and unless there is more current or specific information available, those technical assistance materials shall constitute an element of scientific and technical information as defined in these guidelines and the use of which is required by the act.

Second, base master program provisions on an analysis incorporating the most current, accurate, and complete scientific or technical information available. Local governments should be prepared to identify the following:

- (i) Scientific information and management recommendations on which the master program provisions are based;
- (ii) Assumptions made concerning, and data gaps in, the scientific information; and
- (iii) Risks to ecological functions associated with master program provisions. Address potential risks as described in WAC 173-26-201 (3)(d).

The requirement to use scientific and technical information in these guidelines does not limit a local jurisdiction's authority to solicit and incorporate information, experience, and anecdotal evidence provided by interested parties as part of the master program amendment process. Such information should be solicited through the public participation process described in WAC 173-26-201 (3)(b). Where information collected by or provided to local governments conflicts or is inconsistent, the local government shall base master program provisions on a reasoned, objective evaluation of the relative merits of the conflicting data.

(b) Adaptation of policies and regulations. Effective shoreline management requires the evaluation of changing conditions and the modification of policies and regulations to address identified trends and new information. Local governments should monitor actions taken to implement the master program and shoreline conditions to facilitate appropriate updates of master program provisions to improve shoreline management over time. In reviewing proposals to amend master programs, the department shall evaluate whether the change promotes achievement of the policies of the master program and the act. As provided in WAC 173-26-171 (3)(d), ecology will periodically review these guidelines, based in part on information provided by local government, and through that process local government will receive additional guidance on significant shoreline management issues that may require amendments to master programs.

(c) Protection of ecological functions of the shorelines. This chapter implements the act's policy on protection of shoreline natural resources through protection and restoration of ecological functions necessary to sustain these natural resources. The concept of ecological functions recognizes that any ecological system is composed of a wide variety of interacting physical, chemical and biological components, that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any time. Ecological functions are the work performed or role played individually or collectively within ecosystems by these components.

As established in WAC 173-26-186(8), these guidelines are designed to assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to plan for restoration of ecological functions where they have been impaired. Managing shorelines for protection of their natural resources depends on sustaining the functions provided by:

- Ecosystem-wide processes such as those associated with the flow and movement of water, sediment and organic materials; the presence and movement of fish and wildlife and the maintenance of water quality.
- Individual components and localized processes such as those associated with shoreline vegetation, soils, water movement through the soil and across the land surface and the composition and configuration of the beds and banks of water bodies.

The loss or degradation of the functions associated with ecosystem-wide processes, individual components and localized processes can significantly impact shoreline natural resources and may also adversely impact human health and safety. Shoreline master programs shall address ecological functions associated with applicable ecosystem-wide processes, individual components and localized processes identified in the ecological systems analysis described in WAC 173-26-201 (3)(d)(i).

Nearly all shoreline areas, even substantially developed or degraded areas, retain important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecosystems are interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the policies for protecting and restoring ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Master programs shall contain policies and regulations that assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources. To achieve no net loss of ecological functions as a result of shoreline uses and development, master programs should establish environment designations and associated use provisions consistent with the provisions of these guidelines. Done consistently with these guidelines, this should ensure that development not impair currently functioning habitat or reduce the function of already impaired habitat. Where uses or develop-

ment that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.

Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2)(f), where such functions are found to have been impaired based on analysis described in WAC 173-26-201 (3)(d)(i). It is intended that local government, through the master program, along with other regulatory and nonregulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local government should identify restoration opportunities through the shoreline inventory process and authorize, coordinate and facilitate appropriate publicly and privately initiated restoration projects within their master programs. The goal of this effort is master programs which include planning elements that, when implemented, serve to improve the overall condition of habitat and resources within the shoreline area of each city and county.

(d) **Preferred uses.** As summarized in WAC 173-26-176, the act establishes policy that preference be given to uses that are unique to or dependent upon a shoreline location. Consistent with this policy, these guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC 173-26-020, when discussing appropriate uses for various shoreline areas.

Shoreline areas, being a limited ecological and economic resource, are the setting for competing uses and ecological protection and restoration activities. Consistent with RCW 90.58.020 and WAC 173-26-171 through 173-26-186, local governments should, when determining allowable uses and resolving use conflicts on shorelines within their jurisdiction, apply the following preferences and priorities in the order listed below, starting with (d)(i) of this subsection. For shorelines of statewide significance, also apply the preferences as indicated in WAC 173-26-251(2).

(i) Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.

(ii) Reserve shoreline areas for water-dependent uses and establish policies and regulations so that water-dependent development is consistent with comprehensive ecological protection and restoration objectives. Harbor areas and areas that are generally considered navigable for commercial purposes should be reserved for water-dependent and water-related uses unless the local governments can demonstrate that adequate shoreline is reserved for future water-dependent and water-related uses and unless protection of the natural resource values associated with such areas preclude such uses. Local governments may prepare master program provisions to allow mixed-use developments that include and support water-dependent uses and address specific conditions that affect water-dependent uses.

(iii) Reserve shoreline areas for water-related and water-enjoyment uses that are compatible with water-dependent uses and ecological protection and restoration objectives.

(iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.

(v) Limit nonwater-oriented uses to those locations where either water-oriented uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Evaluation pursuant to the above criteria, local economic and land use conditions, and policies and regulations that assure protection of shoreline resources, may result in determination that other uses are considered as necessary or appropriate and may be accommodated provided that the preferred uses are reasonably provided for in the jurisdiction.

(e) **Environmental impact mitigation.**

(i) To assure no net loss of shoreline ecological functions, master programs shall include provisions that require proposed individual uses and developments to analyze environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the master program and other applicable regulations. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of such environmental impacts shall be conducted consistent with the rules implementing SEPA, which also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Master programs shall indicate that, where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority, with (e)(i)(A) of this subsection being top priority.

(A) Avoiding the impact altogether by not taking a certain action or parts of an action;

(B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(C) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(D) Reducing or eliminating the impact over time by preservation and maintenance operations;

(E) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and

(F) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(ii) In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

Consistent with WAC 173-26-186 (5) and (8), master programs shall also provide direction with regard to mitigation for the impact of the development so that:

(A) Application of the mitigation sequence achieves no net loss of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure that development will result in no net loss

of shoreline ecological functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act.

(B) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

(f) **Shoreline restoration planning.** Consistent with principle WAC 173-26-186 (8)(c), master programs shall include goals, policies and actions for restoration of impaired shoreline ecological functions. These master program provisions should be designed to achieve overall improvements in shoreline ecological functions over time, when compared to the status upon adoption of the master program. The approach to restoration planning may vary significantly among local jurisdictions, depending on:

- The size of the jurisdiction;
- The extent and condition of shorelines in the jurisdiction;
- The availability of grants, volunteer programs or other tools for restoration; and
- The nature of the ecological functions to be addressed by restoration planning.

Master program restoration plans shall consider and address the following subjects:

- (i) Identify degraded areas, impaired ecological functions, and sites with potential for ecological restoration;
- (ii) Establish overall goals and priorities for restoration of degraded areas and impaired ecological functions;
- (iii) Identify existing and ongoing projects and programs that are currently being implemented, or are reasonably assured of being implemented (based on an evaluation of funding likely in the foreseeable future), which are designed to contribute to local restoration goals;
- (iv) Identify additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources for those projects and programs;
- (v) Identify timelines and benchmarks for implementing restoration projects and programs and achieving local restoration goals;
- (vi) Provide for mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals.

(3) **Steps in preparing and amending a master program.**

(a) **Process overview.**

Figure 4 below illustrates a generalized process to prepare or comprehensively amend a shoreline master program.

Local governments may modify the timing of the various steps, integrate the process into other planning activities, add steps to the process, or work jointly with other jurisdictions or regional efforts, provided the provisions of this chapter are met.

The department will provide a shoreline master program amendment checklist to help local governments identify issues to address. The checklist will not create new or additional requirements beyond the provisions of this chapter. The checklist is intended to aid the preparation and review of master program amendments. Local governments shall submit the completed checklist with the proposed master program amendments.

(b) **Participation process.**

(i) **Participation requirements.** Local government shall comply with the provisions of RCW 90.58.130 which states:

"To insure that all persons and entities having an interest in the guidelines and master programs developed under this chapter are provided with a full opportunity for involvement in both their development and implementation, the department and local governments shall:

- (1) *Make reasonable efforts to inform the people of the state about the shoreline management program of this chapter and in the performance of the responsibilities provided in this chapter, shall not only invite but actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs of this chapter; and*
- (2) *Invite and encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interests or responsibilities relating to the shorelines of the state. State and local agencies are directed to participate fully to insure that their interests are fully considered by the department and local governments."*

Additionally, the provisions of WAC 173-26-100 apply and include provisions to assure proper public participation and, for local governments planning under the Growth Management Act, the provisions of RCW 36.70A.140 also apply.

At a minimum, all local governments shall be prepared to describe and document their methods to ensure that all interested parties have a meaningful opportunity to participate.

(ii) **Communication with state agencies.** Before undertaking substantial work, local governments shall notify applicable state agencies to identify state interests, relevant regional and statewide efforts, available information, and methods for coordination and input. Contact the department for a list of applicable agencies to be notified.

(iii) **Communication with affected Indian tribes.** Prior to undertaking substantial work, local governments shall notify affected Indian tribes to identify tribal interests, relevant tribal efforts, available information and methods for coordination and input. Contact the individual tribes or coordinating bodies such as the Northwest Indian Fisheries Commission, for a list of affected Indian tribes to be notified.

(c) **Inventory shoreline conditions.** Gather and incorporate all pertinent and available information, existing inventory data and materials from state agencies, affected Indian tribes, watershed management planning, port districts and other appropriate sources. Ensure that, whenever possible, inventory methods and protocols are consistent with those of neighboring jurisdictions and state efforts. The department will provide, to the extent possible, services and resources for inventory work. Contact the department to determine information sources and other relevant efforts. Map inventory information at an appropriate scale.

Local governments shall be prepared to demonstrate how the inventory information was used in preparing their local master program amendments.

Collection of additional inventory information is encouraged and should be coordinated with other watershed, regional, or statewide inventory and planning efforts in order to ensure consistent methods and data protocol as well as effective use of fiscal and human resources. Local governments should be prepared to demonstrate that they have coordinated with applicable interjurisdictional shoreline inventory and planning programs where they exist. Two or more local governments are encouraged to jointly conduct an inventory in order to increase the efficiency of data gathering and comprehensiveness of inventory information. Data from interjurisdictional, watershed, or regional inventories may be substituted for an inventory conducted by an individual jurisdiction, provided it meets the requirements of this section.

Local government shall, at a minimum, and to the extent such information is relevant and reasonably available, collect the following information:

(i) Shoreline and adjacent land use patterns and transportation and utility facilities, including the extent of existing structures, impervious surfaces, vegetation and shoreline modifications in shoreline jurisdiction.

(ii) Critical areas, including wetlands, aquifer recharge areas, fish and wildlife conservation areas, geologically hazardous areas, and frequently flooded areas, as required by RCW 36.70A.170. See also WAC 173-26-221 (2) and (3).

(iii) Degraded areas and sites with potential for ecological restoration.

(iv) Areas of special interest, such as priority habitats, rapidly developing waterfronts, previously identified toxic or hazardous material clean-up sites, or eroding shorelines, to be addressed through new master program provisions.

(v) Conditions and regulations in shoreland and adjacent areas that affect shorelines, such as surface water management and land use regulations. This information may be useful in achieving mutual consistency between the master program and other development regulations.

(vi) Existing and potential shoreline public access sites, including public rights of way and utility corridors.

(vii) General location of channel migration zones, and flood plains.

(viii) Gaps in existing information. During the initial inventory, local governments should identify what additional information may be necessary for more effective shoreline management.

(ix) If the shoreline is rapidly developing or subject to substantial human changes such as clearing and grading, past and current records or historical aerial photographs may be necessary to identify cumulative impacts, such as bulkhead construction, intrusive development on priority habitats, and conversion of harbor areas to nonwater-oriented uses.

(x) If archaeological or historic resources have been identified in shoreline jurisdiction, consult with the state historic preservation office and local affected Indian tribes regarding existing archaeological and historical information.

(d) **Analyze shoreline issues of concern.** Before establishing specific master program provisions, local governments shall analyze the information gathered in (c) of this subsection and as necessary to ensure effective shoreline management provisions, address the topics below, where applicable.

(i) **Characterization of functions and ecosystem-wide processes.**

(A) Prepare a characterization of shoreline ecosystems and their associated ecological functions. The characterization consists of three steps:

(I) Identify the ecosystem-wide processes and ecological functions based on the list in (d)(i)(C) of this subsection that apply to the shoreline(s) of the jurisdiction.

(II) Assess the ecosystem-wide processes to determine their relationship to ecological functions present within the jurisdiction and identify which ecological functions are healthy, which have been significantly altered and/or adversely impacted and which functions may have previously existed and are missing based on the values identified in (d)(i)(D) of this subsection; and

(III) Identify specific measures necessary to protect and/or restore the ecological functions and ecosystem-wide processes.

(B) The characterization of shoreline ecological systems may be achieved by using one or more of the approaches below:

(I) If a regional environmental management plan, such as a watershed plan or coastal erosion study, is ongoing or has been completed, then conduct the characterization either within the framework of the regional plan or use the data provided in the regional plan. This methodology is intended to contribute to an in-depth and comprehensive assessment and characterization.

(II) If a regional environmental management plan has not been completed, use available scientific and technical information, including flood studies, habitat evaluations and studies, water quality studies, and data and information from environmental impact statements. This characterization of ecosystem-wide processes and the impact upon the functions of specific habitats and human health and safety objectives may be of a generalized nature.

(III) One or more local governments may pursue a characterization which includes a greater scope and complexity than listed in (d)(i)(B)(I) and (II) of this subsection.

(C) Shoreline ecological functions include, but are not limited to:

In rivers and streams and associated flood plains:

Hydrologic: Transport of water and sediment across the natural range of flow variability; attenuating flow energy; developing pools, riffles, gravel bars, recruitment and transport of large woody debris and other organic material.

Shoreline vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, sediment removal and stabilization; attenuation of flow energy; and provision of large woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, water storage, support of vegetation, and sediment storage and maintenance of base flows.

Habitat for native aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction; resting, hiding and migration; and food production and delivery.

In lakes:

Hydrologic: Storing water and sediment, attenuating wave energy, removing excessive nutrients and toxic compounds, recruitment of large woody debris and other organic material.

Shoreline vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, sediment removal and stabilization; and providing woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, water storage, support of vegetation, and sediment storage and maintenance of base flows.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

In marine waters:

Hydrologic: Transporting and stabilizing sediment, attenuating wave and tidal energy, removing excessive nutrients and toxic compounds; recruitment, redistribution and reduction of woody debris and other organic material.

Vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, sediment removal and stabilization; and providing woody debris and other organic matter.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resident native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

Wetlands:

Hydrological: Storing water and sediment, attenuating wave energy, removing excessive nutrients and toxic compounds, recruiting woody debris and other organic material.

Vegetation: Maintaining temperature; removing excessive nutrients and toxic compound, attenuating wave energy, removing and stabilizing sediment; and providing woody debris and other organic matter.

Hyporheic functions: Removing excessive nutrients and toxic compound, storing water and maintaining base flows, storing sediment and support of vegetation.

Habitat for aquatic and shoreline-dependent birds, invertebrates, mammals; amphibians; and anadromous and resi-

dent native fish: Habitat functions may include, but are not limited to, space or conditions for reproduction, resting, hiding and migration; and food production and delivery.

(D) The overall condition of habitat and shoreline resources are determined by the following ecosystem-wide processes and ecological functions:

The distribution, diversity, and complexity of the watersheds, marine environments, and landscape-scale features that form the aquatic systems to which species, populations, and communities are uniquely adapted.

The spatial and temporal connectivity within and between watersheds and along marine shorelines. Drainage network connections include flood plains, wetlands, upslope areas, headwater tributaries, and naturally functioning routes to areas critical for fulfilling life history requirements of aquatic and riverine-dependent species.

The shorelines, beaches, banks, marine near-shore habitats, and bottom configurations that provide the physical framework of the aquatic system.

The timing, volume, and distribution of woody debris recruitment in rivers, streams and marine habitat areas.

The water quality necessary to maintain the biological, physical, and chemical integrity of the system and support survival, growth, reproduction, and migration of individuals composing aquatic and riverine communities.

The sediment regime under which aquatic ecosystems evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport.

The range of flow variability sufficient to create and sustain fluvial, aquatic, and wetland habitats, the patterns of sediment, nutrient, and wood routing. The timing, magnitude, duration, and spatial distribution of peak, high, and low flows, and duration of flood plain inundation and water table elevation in meadows and wetlands.

The species composition and structural diversity of plant communities in river and stream areas and wetlands that provides summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of woody debris sufficient to sustain physical complexity and stability.

(E) Local governments should use the characterization and analysis called for in this section to prepare master program policies and regulations designed to achieve no net loss of ecological functions necessary to support shoreline resources and to plan for the restoration of the ecosystem-wide processes and individual ecological functions on a comprehensive basis over time.

(ii) **Shoreline use analysis and priorities.** Conduct an analysis to estimate the future demand for shoreline space and potential use conflicts. Characterize current shoreline use patterns and projected trends to ensure appropriate uses consistent with chapter 90.58 RCW and WAC 173-26-201(2)(d) and 173-26-211(5).

If the jurisdiction includes a harbor area or urban waterfront with intensive uses or significant development issues, work with the Washington state department of natural resources and port authorities to ensure consistency with har-

bor area statutes and regulations. Identify measures and strategies to encourage appropriate use of these shoreline areas while pursuing opportunities for ecological restoration.

(iii) **Addressing cumulative impacts in developing master programs.** The principle that regulation of development shall achieve no net loss of ecological function requires that master program policies and regulations address the cumulative impacts on shoreline ecological functions that would result from future shoreline development and uses that are reasonably foreseeable from proposed master programs. To comply with the general obligation to assure no net loss of shoreline ecological function, the process of developing the policies and regulations of a shoreline master program requires assessment of how proposed policies and regulations cause and avoid such cumulative impacts.

Evaluating and addressing cumulative impacts shall be consistent with the guiding principle in WAC 173-26-186 (8)(d). An appropriate evaluation of cumulative impacts on ecological functions will consider the factors identified in WAC 173-26-186 (8)(d)(i) through (iii) and the effect on the ecological functions of the shoreline that are caused by unregulated activities, development exempt from permitting, effects such as the incremental impact of residential bulkheads, residential piers, or runoff from newly developed properties. Accordingly, particular attention should be paid to policies and regulations that address platting or subdividing of property, laying of utilities, and mapping of streets that establish a pattern for future development that is to be regulated by the master program.

There are practical limits when evaluating impacts that are prospective and sometimes indirect. Local government should rely on the assistance of state agencies and appropriate parties using evaluation, measurement, estimation, or quantification of impact consistent with the guidance of RCW 90.58.100(1) and WAC 173-26-201 (2)(a). Policies and regulations of a master program are not inconsistent with these guidelines for failing to address cumulative impacts where a purported impact is not susceptible to being addressed using an approach consistent with RCW 90.58.100 (1).

Complying with the above guidelines is the way that master program policies and regulations should be developed to assure that the commonly occurring and foreseeable cumulative impacts do not cause a net loss of ecological functions of the shoreline. For such commonly occurring and planned development, policies and regulations should be designed without reliance on an individualized cumulative impacts analysis. Local government shall fairly allocate the burden of addressing cumulative impacts.

For development projects that may have unanticipated or uncommon impacts that cannot be reasonably identified at the time of master program development, the master program policies and regulations should use the permitting or conditional use permitting processes to ensure that all impacts are addressed and that there is no net loss of ecological function of the shoreline after mitigation.

Similarly, local government shall consider and address cumulative impacts on other functions and uses of the shoreline that are consistent with the act. For example, a cumula-

tive impact of allowing development of docks or piers could be interference with navigation on a water body.

(iv) **Shorelines of statewide significance.** If the area contains shorelines of statewide significance, undertake the steps outlined in WAC 173-26-251.

(v) **Public access.** Identify public access needs and opportunities within the jurisdiction and explore actions to enhance shoreline recreation facilities, as described in WAC 173-26-221(4).

(vi) **Enforcement and coordination with other regulatory programs.** Local governments planning under the Growth Management Act shall review their comprehensive plan policies and development regulations to ensure mutual consistency. In order to effectively administer and enforce master program provisions, local governments should also review their current permit review and inspection practices to identify ways to increase efficiency and effectiveness and to ensure consistency.

(vii) **Water quality and quantity.** Identify water quality and quantity issues relevant to master program provisions, including those that affect human health and safety. At a minimum, consult with appropriate federal, state, tribal, and local agencies.

(viii) **Vegetation conservation.** Identify how existing shoreline vegetation provides ecological functions and determine methods to ensure protection of those functions. Identify important ecological functions that have been degraded through loss of vegetation. Consider the amount of vegetated shoreline area necessary to achieve ecological objectives. While there may be less vegetation remaining in urbanized areas than in rural areas, the importance of this vegetation, in terms of the ecological functions it provides, is often as great or even greater than in rural areas due to its scarcity. Identify measures to ensure that new development meets vegetation conservation objectives.

(ix) **Special area planning.** Some shoreline sites or areas require more focused attention than is possible in the overall master program development process due to complex shoreline ecological issues, changing uses, or other unique features or issues. In these circumstances, the local government is encouraged to undertake special area planning. Special area planning also may be used to address: Public access, vegetation conservation, shoreline use compatibility, port development master planning, ecological restoration, or other issues best addressed on a comprehensive basis.

The resultant plans may serve as the basis for facilitating state and local government coordination and permit review. Special area planning shall provide for public and affected Indian tribe participation and compliance with all applicable provisions of the act and WAC 173-26-090 through 173-26-120.

(e) **Establish shoreline policies.** Address all of the elements listed in RCW 90.58.100(2) and all applicable provisions of these guidelines in policies. These policies should be reviewed for mutual consistency with the comprehensive plan policies. If there are shorelines of statewide significance, ensure that the other comprehensive plan policies affecting shoreline jurisdiction are consistent with the objectives of RCW 90.58.020 and 90.58.090(4).

(f) **Establish environment designations.** Establish environment designations and identify permitted uses and development standards for each environment designation.

Based on the inventory in (c) of this subsection and the analysis in (d) of this subsection, assign each shoreline segment an environment designation.

Prepare specific environment designation policies and regulations.

Review the environment designations for mutual consistency with comprehensive plan land use designations as indicated in WAC 173-26-211(3).

In determining the boundaries and classifications of environment designations, adhere to the priorities in WAC 173-26-211(5).

(g) **Prepare other shoreline regulations.** Prepare other shoreline regulations based on the policies and the analyses described in this section as necessary to assure consistency with the guidelines of this chapter. The level of detail of inventory information and planning analysis will be a consideration in setting shoreline regulations. As a general rule, the less known about existing resources, the more protective shoreline master program provisions should be to avoid unanticipated impacts to shoreline resources. If there is a question about the extent or condition of an existing ecological resource, then the master program provisions shall be sufficient to reasonably assure that the resource is protected in a manner consistent with the policies of these guidelines. Local governments may accomplish this by including master program requirements for an on-site inventory at the time of project application and performance standard that assure appropriate protection.

(h) **Submit for review and approval.** Local governments are encouraged to work with department personnel during preparation of the master program and to submit draft master program provisions to the department for informal advice and guidance prior to formal submittal.

Local governments shall submit the completed checklist, as described in WAC 173-26-201 (3)(a), with their master program amendments proposed for adoption. Master program review and formal adoption procedures are described in Parts I and II of this chapter.

NEW SECTION

WAC 173-26-211 Environment designation system.

(1) **Applicability.** This section applies to the establishment of environment designation boundaries and provisions as described in WAC 173-26-191 (1)(d).

(2) **Basic requirements for environment designation classification and provisions.**

(a) Master programs shall contain a system to classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section. Each master program's classification system shall be consistent with that described in WAC 173-26-211 (4) and (5)

unless the alternative proposed provides equal or better implementation of the act.

(b) An up-to-date and accurate map of the shoreline area delineating the environment designations and their boundaries shall be prepared and maintained in the local government office that administers shoreline permits. If it is not feasible to accurately designate individual parcels on a map, the master program text shall include a clear basis for identifying the boundaries, physical features, explicit criteria, or "common" boundary descriptions to accurately define and distinguish the environments on the ground. The master program should also make it clear that in the event of a mapping error, the jurisdiction will rely upon common boundary descriptions and the criteria contained in RCW 90.58.030(2) and chapter 173-22 WAC pertaining to determinations of shorelands, as amended, rather than the incorrect or outdated map.

(c) To facilitate consistency with land use planning, local governments planning under chapter 36.70A RCW are encouraged to illustrate shoreline designations on the comprehensive plan future land use map as described in WAC 365-195-300 (2)(d).

(d) Pursuant to RCW 90.58.040, the map should clearly illustrate what environment designations apply to all shorelines of the state as defined in RCW 90.58.030 (2)(c) within the local government's jurisdiction in a manner consistent with WAC 173-26-211 (4) and (5).

(e) The map and the master program should note that all areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned a "rural conservancy" designation, or "urban conservancy" designation if within a municipality or urban growth area, or the comparable environment designation of the applicable master program until the shoreline can be redesignated through a master program amendment.

(f) The following diagram summarizes the components of the environment designation provisions.

PROPOSED

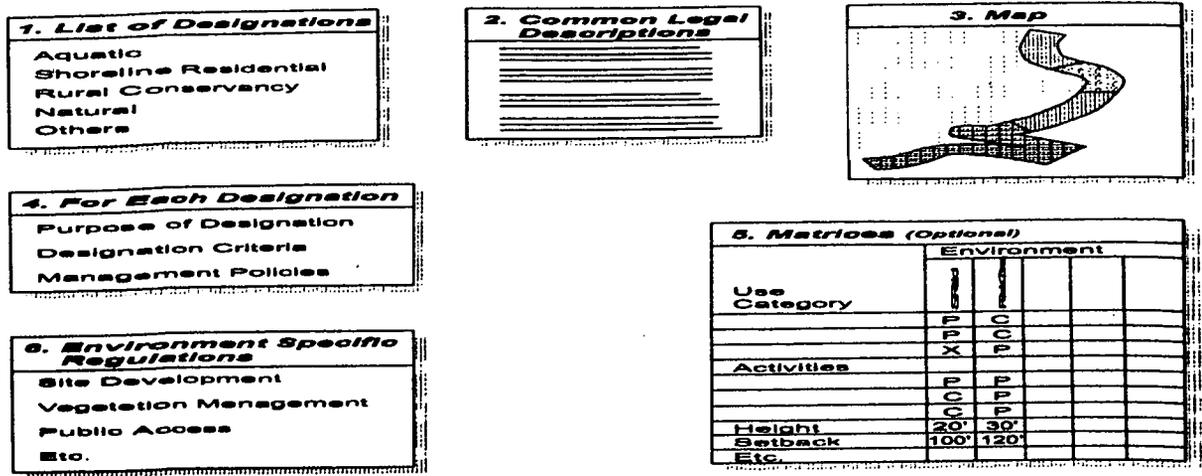


Figure 5. Diagram summarizing the components of the environment designation provisions. (This is for illustration purposes only and does not supplement or add to the language in the chapter text.)

(3) **Consistency between shoreline environment designations and the local comprehensive plan.** As noted in WAC 173-26-191 (1)(e), RCW 90.58.340 requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the applicable master program. Conversely, local comprehensive plans constitute the underlying framework within which master program provisions should fit. The Growth Management Act, where applicable, designates shoreline master program policies as an element of the comprehensive plan and requires that all elements be internally consistent. Chapter 36.70A RCW also requires development regulations to be consistent with the comprehensive plan.

The following criteria are intended to assist local governments in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

(a) **Provisions not precluding one another.** The comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criteria, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

(b) **Use compatibility.** Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby nonwater-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with pre-

ferred uses from locating where they may restrict preferred uses or development.

(c) **Sufficient infrastructure.** Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

(4) **General environment designation provisions.**

(a) **Requirements.** For each environment designation, the shoreline master program shall describe:

(i) **Purpose statement.** The statement of purpose shall describe the shoreline management objectives of the designation in a manner that distinguishes it from other designations.

(ii) **Classification criteria.** Clearly stated criteria shall provide the basis for classifying or reclassifying a specific shoreline area with an environment designation.

(iii) **Management policies.** These policies shall be in sufficient detail to assist in the interpretation of the environment designation regulations and, for jurisdictions planning under chapter 36.70A RCW, to evaluate consistency with the local comprehensive plan.

(iv) **Regulations.** Environment-specific regulations shall address the following where necessary to account for different shoreline conditions:

(A) Types of shoreline uses permitted, conditionally permitted, and prohibited;

(B) Building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards; and

(C) Other topics not covered in general use regulations that are necessary to assure implementation of the purpose of the environment designation.

(b) **The recommended classification system.** The recommended classification system consists of six basic environments: "High-intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic" as described in this section and WAC 173-26-211(5). Local governments should assign all shoreline areas an environment designation consistent with the corresponding designation criteria provided for each environment. In delineating environment designations, local government should assure that existing shoreline ecological functions are protected with the proposed pattern and intensity of development. Such designations should also be consistent with policies for restoration of degraded shorelines.

(c) **Alternative systems.**

(i) Local governments may establish a different designation system or may retain their current environment designations, provided it is consistent with the purposes and policies of this section and WAC 173-26-211(5).

(ii) Local governments may use "parallel environments" where appropriate. Parallel environments divide shorelands into different sections generally running parallel to the shoreline or along a physical feature such as a bluff or railroad right of way. Such environments may be useful, for example, to accommodate resource protection near the shoreline and existing development further from the shoreline. Where parallel environments are used, developments and uses allowed in one environment should not be inconsistent with the achieving the purposes of the other.

(5) **The designations.**

(a) **"Natural" environment.**

(i) **Purpose.** The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, local government should include planning for restoration of degraded shorelines within this environment.

(ii) **Management policies.**

(A) Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

(B) The following new uses should not be allowed in the "natural" environment:

- Commercial uses.
- Industrial uses.
- Nonwater-oriented recreation.
- Roads, utility corridors, and parking areas that can be located outside of "natural" designated shorelines.

(C) Single-family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

(D) Commercial forestry may be allowed as a conditional use in the "natural" environment provided it meets the conditions of the State Forest Practices Act and its imple-

menting rules and is conducted in a manner consistent with the purpose of this environment designation.

(E) Agricultural uses of a very low intensity nature may be consistent with the natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of designation.

(F) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.

(G) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

(iii) **Designation criteria.** A "natural" environment designation should be assigned to shoreline areas if any of the following characteristics apply:

(A) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

(B) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

(C) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as "natural."

Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

Areas with significant existing agriculture lands should not be included in the "natural" designation, except where the existing agricultural operations involve very low intensity uses where there is no significant impact on natural ecological functions, and where the intensity or impacts associated with such agriculture activities is unlikely to expand in a manner inconsistent with the "natural" designation.

(b) **"Rural conservancy" environment.**

(i) **Purpose.** The purpose of the "rural conservancy" environment is to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas in order to provide for sustained resource use, achieve natural flood plain processes, and provide recreational opportunities. Examples of uses that are appropriate in a "rural conservancy" environment include low-impact outdoor recreation uses, timber harvesting on a sustained-yield basis, agricultural uses, aquaculture, low-intensity residential development and other natural resource-based low-intensity uses.

(ii) **Management policies.**

(A) Uses in the "rural conservancy" environment should be limited to those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.

Except as noted, commercial and industrial uses should not be allowed. Agriculture, commercial forestry, and aquaculture when consistent with provisions of this chapter may be allowed. Low-intensity, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the development.

Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated.

Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the rural conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-241 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

(B) Developments and uses that would substantially degrade or permanently deplete the biological resources of the area should not be allowed.

(C) Construction of new structural shoreline stabilization and flood control works should only be allowed where there is a documented need to protect an existing structure or ecological functions and mitigation is applied, consistent with WAC 173-26-231. New development should be designed and located to preclude the need for such work.

(D) Residential development standards shall ensure no net loss of shoreline ecological functions and should preserve the existing character of the shoreline consistent with the purpose of the environment. As a general matter, meeting this

provision will require density, lot coverage, vegetation conservation and other provisions.

Scientific studies support density or lot coverage limitation standards that assure that development will be limited to a maximum of ten percent total impervious surface area within the lot or parcel, will maintain the existing hydrologic character of the shoreline. However, an alternative standard developed based on scientific information that meets the provisions of this chapter and accomplishes the purpose of the environment designation may be used.

Master programs may allow greater lot coverage to allow development of lots legally created prior to the adoption of a master program prepared under these guidelines. In these instances, master programs shall include measures to assure protection of ecological functions to the extent feasible such as requiring that lot coverage is minimized and vegetation is conserved.

(E) New shoreline stabilization, flood control measures, vegetation removal, and other shoreline modifications should be designed and managed consistent with these guidelines to ensure that the natural shoreline functions are protected. Such shoreline modification should not be inconsistent with planning provisions for restoration of shoreline ecological functions.

(iii) **Designation criteria.** Assign a "rural conservancy" environment designation to shoreline areas outside incorporated municipalities and outside urban growth areas, as defined by RCW 36.70A.110, if any of the following characteristics apply:

(A) The shoreline is currently supporting lesser-intensity resource-based uses, such as agriculture, forestry, or recreational uses, or is designated agricultural or forest lands pursuant to RCW 36.70A.170;

(B) The shoreline is currently accommodating residential uses outside urban growth areas and incorporated cities or towns;

(C) The shoreline is supporting human uses but subject to environmental limitations, such as properties that include or are adjacent to steep banks, feeder bluffs, or flood plains or other flood-prone areas;

(D) The shoreline is of high recreational value or with unique historic or cultural resources; or

(E) The shoreline has low-intensity water-dependent uses.

Areas designated in a local comprehensive plan as "rural areas of more intense development," as provided for in chapter 36.70A RCW, may be designated an alternate shoreline environment, provided it is consistent with the objectives of the Growth Management Act and this chapter. "Master planned resorts" as described in RCW 36.70A.360 may be designated an alternate shoreline environment, provided the applicable master program provisions do not allow significant ecological impacts.

Lands that may otherwise qualify for designation as rural conservancy and which are designated as "mineral resource lands" pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a designation within the "rural conservancy" environment that allows mining and associated uses in addi-

tion to other uses consistent with the rural conservancy environment.

(c) **"Aquatic" environment.**

(i) **Purpose.** The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

(ii) **Management policies.**

(A) Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

(B) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

(C) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple use of over-water facilities should be encouraged.

(D) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.

(E) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions.

(F) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

(iii) **Designation criteria.** Assign an "aquatic" environment designation to lands waterward of the ordinary high-water mark.

Local governments may designate submerged and intertidal lands with shoreland designations (e.g., "high-intensity" or "rural conservancy") if the management policies and objectives for aquatic areas are met. In this case, the designation system used must provide regulations for managing submerged and intertidal lands that are clear and consistent with the "aquatic" environment management policies in this chapter. Additionally, local governments may assign an "aquatic" environment designation to wetlands.

(d) **"High-intensity" environment.**

(i) **Purpose.** The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

(ii) **Management policies.**

(A) In regulating uses in the "high-intensity" environment, first priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed use developments. Nonwater-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access

to the shoreline. Such specific situations should be identified in shoreline use analysis or special area planning, as described in WAC 173-26-200 (3)(d).

If an analysis of water-dependent use needs as described in WAC 173-26-201 (3)(d)(ii) demonstrates the needs of existing and envisioned water-dependent uses for the planning period are met, then provisions allowing for a mix of water-dependent and nonwater-dependent uses may be established. If those shoreline areas also provide ecological functions, apply standards to assure no net loss of those functions.

(B) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "high-intensity." However, consideration should be given to the potential for displacement of nonwater-oriented uses with water-oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.

(C) Policies and regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply in accordance with any relevant state and federal law.

(D) Where feasible, visual and physical public access should be required as provided for in WAC 173-26-221 (4)(d).

(E) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

(iii) **Designation criteria.** Assign a "high-intensity" environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "rural areas of more intense development," as described by RCW 36.70A.070, if they currently support or are suitable and planned for high-intensity water-dependent uses related to commerce, transportation, or navigation.

(e) **"Urban conservancy" environment.**

(i) **Purpose.** The purpose of the "urban conservancy" environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

(ii) **Management policies.**

(A) Uses that preserve the natural character of the area or promote preservation of open space, flood plain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

(B) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

(C) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(D) Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

(E) Mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use within the urban conservancy environment when conducted in a manner consistent with the environment policies and the provisions of WAC 173-26-240 (3)(h) and when located consistent with mineral resource lands designation criteria pursuant to RCW 36.70A.170 and WAC 365-190-070.

(iii) **Designation criteria.** Assign an "urban conservancy" environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "rural areas of more intense development" if any of the following characteristics apply:

(A) They are suitable for water-related or water-enjoyment uses;

(B) They are open space, flood plain or other sensitive areas that should not be more intensively developed;

(C) They have potential for ecological restoration;

(D) They retain important ecological functions, even though partially developed; or

(E) They have the potential for development that is compatible with ecological restoration.

Lands that may otherwise qualify for designation as urban conservancy and which are designated as "mineral resource lands" pursuant to RCW 36.70A.170 and WAC 365-190-070 may be assigned a designation within the "urban conservancy" environment that allows mining and associated uses in addition to other uses consistent with the urban conservancy environment.

(f) **"Shoreline residential" environment.**

(i) **Purpose.** The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(ii) **Management policies.**

(A) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or conditions, provided both environments adhere to the provisions in this chapter.

(B) Multifamily and multilot residential and recreational developments should provide public access and joint use for community recreational facilities.

(C) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

(D) Commercial development should be limited to water-oriented uses.

(iii) **Designation criteria.** Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

NEW SECTION

WAC 173-26-221 General master program provisions. The provisions of this section shall be applied either generally to all shoreline areas or to shoreline areas that meet the specified criteria of the provision without regard to environment designation. These provisions address certain elements as required by RCW 90.58.100(2) and implement the principles as established in WAC 173-26-186.

(1) **Archaeological and historic resources.**

(a) **Applicability.** The following provisions apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter.

(b) **Principles.** Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the office of archaeology and historic preservation.

(c) **Standards.** Local shoreline master programs shall include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines and implement the following standards. A local government may reference historic inventories or regulations. Contact the office of archaeology and historic preservation and affected Indian tribes for additional information.

(i) Require that developers and property owners immediately stop work and notify the local government, the office of archaeology and historic preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

(ii) Require that permits issued in areas documented to contain archaeological resources require a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes.

(2) Critical areas.

(a) **Applicability.** Pursuant to the provisions of RCW 90.58.090(4) as amended by chapter 321, Laws of 2003 (ESHB 1933), shoreline master programs must provide for management of critical areas located within the shorelines of the state:

- (i) In a manner consistent with these guidelines; and
- (ii) In a manner that provides a level of protection to critical areas within the shoreline area that is at least equal to that provided by the local government's critical area regulations adopted pursuant to the Growth Management Act for areas other than shorelines.

The provisions of this subsection and subsection (3) of this section, flood hazard reduction, shall be applied to critical areas, as defined by chapter 36.70A RCW within the shorelines of the state. Implementation of RCW 90.58.020 includes the management of critical areas in the shoreline in order to protect human health and safety and the state's natural resources. RCW 36.70A.030 defines critical areas as stated below:

"Critical areas" include the following areas and ecosystems:

(a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable waters; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas."

The provisions of WAC 365-190-080, to the extent consistent with these provisions, are also applicable to and provide further definition of critical area categories and management policies.

(b) **Principles.** Local master programs, when addressing critical areas, shall implement the following principles:

(i) Shoreline master programs shall adhere to the standards established in the following sections, unless it is demonstrated through scientific and technical information as provided in RCW 90.58.100(1) and as described in WAC 173-26-201 (2)(a) that an alternative approach provides better resource protection.

(ii) In addressing issues related to critical areas, use scientific and technical information, as described in WAC 173-26-201 (2)(a). Local government should be aware of parallel requirements of the Growth Management Act regarding best available science, which are provided for in chapter 36.70A RCW. The role of ecology in reviewing master program provisions for critical areas in shorelines of the state will be based on the Shoreline Management Act and these guidelines.

(iii) In protecting and restoring critical areas within shoreline jurisdiction, integrate the full spectrum of planning and regulatory measures, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs.

(iv) The planning objectives of shoreline management provisions for critical areas shall be the protection of existing ecological functions and ecosystem-wide processes and restoration of degraded ecological functions and ecosystem-wide processes. The regulatory provisions for critical areas shall protect existing ecological functions and ecosystem-wide processes.

(v) Promote human uses and values that are compatible with the other objectives of this section, such as public access and aesthetic values, provided they do not significantly adversely impact ecological functions.

(vi) Implement, where applicable and consistent with the objectives of the Shoreline Management Act, the minimum guidelines in WAC 365-190-080 and assure that the protection afforded to critical areas within the shorelines of the state is at least equal to the level of protection provided for non-shoreline critical areas within any one jurisdiction.

(c) **Standards.** When preparing master program provisions for critical areas, local governments should implement the following standards and the provisions of WAC 365-190-080 and use scientific and technical information, as provided for in WAC 173-26-201 (2)(a).

In reviewing the critical areas segment of a master program, the department of ecology shall first assure consistency with these standards, and shall then assure that the master program also provides protection of critical areas that is at least equal to the protection provided by the local governments approved and valid critical area regulations in effect at the time of submittal of the SMP.

In conducting the review for equivalency with local regulations, the department shall not further evaluate the adequacy of the local critical area regulations. Incorporation of the approved and valid critical area regulations in effect at the time of submittal by reference as provided in WAC 173-26-191 (2)(b) shall be deemed to meet the requirement for equivalency.

Note that provisions for frequently flooded areas are included in WAC 173-26-221(3).

(i) Wetlands.

(A) **Wetland use regulations.** Local governments should consult the department's technical guidance documents on wetlands.

Regulations shall address the following uses to achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function:

- The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
- The dumping, discharging, or filling with any material, including discharges of storm water and domestic, commercial, or industrial wastewater;
- The draining, flooding, or disturbing of the water level, duration of inundation, or water table;
- The driving of pilings;
- The placing of obstructions;
- The construction, reconstruction, demolition, or expansion of any structure;
- Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules;
- Other uses or development that results in a significant ecological impact to the physical, chemical, or biological characteristics of wetlands; or
- Activities reducing the functions of buffers described in (c)(i)(D) of this subsection.

(B) **Wetland rating or categorization.** Wetlands shall be categorized based on the rarity, irreplaceability, or sensitivity to disturbance of a wetland and the functions the wetland provides. Local governments should either use the Washington state wetland rating system, Eastern or Western Washington version as appropriate, or they should develop their own, regionally specific, scientifically based method for categorizing wetlands. Wetlands should be categorized to reflect differences in wetland quality and function in order to tailor protection standards appropriately. A wetland categorization method is not a substitute for a function assessment method, where detailed information on wetland functions is needed.

(C) **Alterations to wetlands.** Master program provisions addressing alterations to wetlands shall be consistent with the policy of no net loss of wetland area and functions, wetland rating, scientific and technical information, and the mitigation priority sequence defined in WAC 173-26-020.

(D) **Buffers.** Master programs shall contain requirements for buffer zones around wetlands. Buffer requirements shall be adequate to ensure that wetland functions are protected and maintained in the long term. Requirements for buffer zone widths and management shall take into account the ecological functions of the wetland, the characteristics and setting of the buffer, the potential impacts associated with the adjacent land use, and other relevant factors.

(E) **Mitigation.** Master programs shall contain wetland mitigation requirements that are consistent with WAC 173-26-201 (2)(e) and which are based on the wetland rating.

(F) **Compensatory mitigation.** Compensatory mitigation shall be allowed only after mitigation sequencing is applied and higher priority means of mitigation are determined to be infeasible.

Requirements for compensatory mitigation must include provisions for:

(I) Mitigation replacement ratios or a similar method of addressing the following:

- The risk of failure of the compensatory mitigation action;
- The length of time it will take the compensatory mitigation action to adequately replace the impacted wetland functions and values;
- The gain or loss of the type, quality, and quantity of the ecological functions of the compensation wetland as compared with the impacted wetland.

(II) Establishment of performance standards for evaluating the success of compensatory mitigation actions;

(III) Establishment of long-term monitoring and reporting procedures to determine if performance standards are met; and

(IV) Establishment of long-term protection and management of compensatory mitigation sites.

Credits from a certified mitigation bank may be used to compensate for unavoidable impacts.

(ii) **Geologically hazardous areas.** Development in designated geologically hazardous areas shall be regulated in accordance with the following:

(A) Consult minimum guidelines for geologically hazardous areas, WAC 365-190-080(4).

(B) Do not allow new development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development.

(C) Do not allow new development that would require structural shoreline stabilization over the life of the development. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. The stabilization measures shall conform to WAC 173-26-231.

(D) Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure, stabilization structures or measures to protect existing primary residential structures may be allowed in strict conformance with WAC 173-26-231 requirements and then only if no net loss of ecological functions will result.

(iii) **Critical saltwater habitats.**

(A) **Applicability.** Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance, commercial and recreational shellfish beds, mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association. Critical saltwater habitats require a higher level of protection due to the important ecological functions they provide. Ecological functions of marine shorelands can affect the viability of critical saltwater habitats. Therefore, effective protection and restoration of critical saltwater habitats should integrate management of shorelands as well as submerged areas.

(B) **Principles.** Master programs shall include policies and regulations to protect critical saltwater habitats and should implement planning policies and programs to restore such habitats. Planning for critical saltwater habitats shall incorporate the participation of state resource agencies to assure consistency with other legislatively created programs in addition to local and regional government entities with an interest such as port districts. Affected Indian tribes shall also be consulted. Local governments should review relevant comprehensive management plan policies and development regulations for shorelands and adjacent lands to achieve consistency as directed in RCW 90.58.340. Local governments should base management planning on information provided by state resource agencies and affected Indian tribes unless they demonstrate that they possess more accurate and reliable information.

The management planning should include an evaluation of current data and trends regarding the following:

- Available inventory and collection of necessary data regarding physical characteristics of the habitat, including upland conditions, and any information on species population trends;
- Terrestrial and aquatic vegetation;
- The level of human activity in such areas, including the presence of roads and level of recreational types (passive or active recreation may be appropriate for certain areas and habitats);
- Restoration potential;

- Tributaries and small streams flowing into marine waters;
- Dock and bulkhead construction, including an inventory of bulkheads serving no protective purpose;
- Conditions and ecological functions in the near-shore area;
- Uses surrounding the critical saltwater habitat areas that may negatively impact those areas, including permanent or occasional upland, beach, or over-water uses; and
- An analysis of what data gaps exist and a strategy for gaining this information.

The management planning should address the following, where applicable:

- Protecting a system of fish and wildlife habitats with connections between larger habitat blocks and open spaces and restoring such habitats and connections where they are degraded;
- Protecting existing and restoring degraded riparian and estuarine ecosystems, especially salt marsh habitats;
- Establishing adequate buffer zones around these areas to separate incompatible uses from the habitat areas;
- Protecting existing and restoring degraded near-shore habitat;
- Protecting existing and restoring degraded or lost salmonid habitat;
- Protecting existing and restoring degraded upland ecological functions important to critical saltwater habitats, including riparian vegetation;
- Improving water quality;
- Protecting existing and restoring degraded sediment inflow and transport regimens; and
- Correcting activities that cause excessive sediment input where human activity has led to mass wasting.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should classify critical saltwater habitats and protect and restore seasonal ranges and habitat elements with which federal-listed and state-listed endangered, threatened, and priority species have a primary association and which, if altered, may reduce the likelihood that a species will maintain its population and reproduce over the long term.

Local governments, in conjunction with state resource agencies and affected Indian tribes, should determine which habitats and species are of local importance.

All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Local governments should consider both commercial and recreational shellfish areas. Local governments should review the Washington department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination or potential for recovery. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas. Local governments shall classify kelp and eelgrass beds identified by the department of natural resources' aquatic resources division, the department, and affected Indian tribes as critical saltwater habitats.

Comprehensive saltwater habitat management planning should identify methods for monitoring conditions and adapting management practices to new information.

(C) **Standards.** Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:

- The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
- Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
- The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
- The project is consistent with the state's interest in resource protection and species recovery.

Private, noncommercial docks for individual residential or community use may be authorized provided that:

- Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
- The project including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

Until an inventory of critical saltwater habitat has been done, shoreline master programs shall condition all over-water and near-shore developments in marine and estuarine waters with the requirement for an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology. At a minimum, local governments should consult with department technical assistance materials for guidance.

(iv) **Critical freshwater habitats.**

(A) **Applicability.** The following applies to master program provisions affecting critical freshwater habitats, including those portions of streams, rivers, wetlands, and lakes, their associated channel migration zones, and flood plains designated as such.

(B) **Principles.** Many ecological functions of river and stream corridors depend both on continuity and connectivity along the length of the shoreline and on the conditions of the surrounding lands on either side of the river channel. Environmental degradation caused by development such as improper storm water sewer or industrial outfalls, unmanaged clearing and grading, or runoff from buildings and parking lots within the watershed, can degrade ecological functions downstream. Likewise, gradual destruction or loss of the vegetation, alteration of runoff quality and quantity along the corridor resulting from incremental flood plain development can raise water temperatures and alter hydrographic conditions and degrade other ecological functions, thereby making the corridor inhospitable for priority species and susceptible to catastrophic flooding, droughts, landslides and channel changes. These conditions also threaten human health, safety, and property. Long stretches of river and stream shorelines have been significantly altered or degraded

in this manner. Therefore, effective management of river and stream corridors depends on:

(I) Planning for protection, and restoration where appropriate, along the entire length of the corridor from river headwaters to the mouth; and

(II) Regulating uses and development within the stream channel, associated channel migration zone, wetlands, and the flood plain, to the extent such areas are in the shoreline jurisdictional area, as necessary to assure no net loss of ecological functions associated with the river or stream corridors, including the associated hyporheic zone, results from new development.

As part of a comprehensive approach to management of critical freshwater habitat and other river and stream values, local governments should integrate master program provisions, including those for shoreline stabilization, fill, vegetation conservation, water quality, flood hazard reduction, and specific uses, to protect human health and safety and to protect and restore the corridor's ecological functions and ecosystem-wide processes.

Applicable master programs shall contain provisions to protect hydrologic connections between water bodies, water courses, and associated wetlands. Restoration planning should include incentives and other means to restore water connections that have been impeded by previous development.

Master program provisions for river and stream corridors should, where appropriate, be based on the information from comprehensive watershed management planning where available.

(C) **Standards.** Master programs shall implement the following standards within shoreline jurisdiction:

(I) Provide for the protection of ecological functions associated with critical freshwater habitat as necessary to assure no net loss.

(II) Where appropriate, integrate protection of critical freshwater habitat, protection with flood hazard reduction and other river and stream management provisions.

(III) Include provisions that facilitate authorization of appropriate restoration projects.

(IV) Provide for the implementation of the principles identified in (c)(iv)(B) of this subsection.

(3) **Flood hazard reduction.**

(a) **Applicability.** The following provisions apply to actions taken to reduce flood damage or hazard and to uses, development, and shoreline modifications that may increase flood hazards. Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and storm water management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program. Additional relevant critical area provisions are in WAC 173-26-221(2).

(b) **Principles.** Flooding of rivers, streams, and other shorelines is a natural process that is affected by factors and land uses occurring throughout the watershed. Past land use practices have disrupted hydrological processes and

increased the rate and volume of runoff, thereby exacerbating flood hazards and reducing ecological functions. Flood hazard reduction measures are most effective when integrated into comprehensive strategies that recognize the natural hydrogeological and biological processes of water bodies. Over the long term, the most effective means of flood hazard reduction is to prevent or remove development in flood-prone areas, to manage storm water within the flood plain, and to maintain or restore river and stream system's natural hydrological and geomorphological processes.

Structural flood hazard reduction measures, such as diking, even if effective in reducing inundation in a portion of the watershed, can intensify flooding elsewhere. Moreover, structural flood hazard reduction measures can damage ecological functions crucial to fish and wildlife species, bank stability, and water quality. Therefore, structural flood hazard reduction measures shall be avoided whenever possible. When necessary, they shall be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes.

The dynamic physical processes of rivers, including the movement of water, sediment and wood, cause the river channel in some areas to move laterally, or "migrate," over time. This is a natural process in response to gravity and topography and allows the river to release energy and distribute its sediment load. The area within which a river channel is likely to move over a period of time is referred to as the channel migration zone (CMZ) or the meander belt. Scientific examination as well as experience has demonstrated that interference with this natural process often has unintended consequences for human users of the river and its valley such as increased or changed flood, sedimentation and erosion patterns. It also has adverse effects on fish and wildlife through loss of critical habitat for river and riparian dependent species. Failing to recognize the process often leads to damage to, or loss of, structures and threats to life safety.

Applicable shoreline master programs should include provisions to limit development and shoreline modifications that would result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams. (See also (c) of this subsection.)

The channel migration zone should be established to identify those areas with a high probability of being subject to channel movement based on the historic record, geologic character and evidence of past migration. It should also be recognized that past action is not a perfect predictor of the future and that human and natural changes may alter migration patterns. Consideration should be given to such changes that may have occurred and their effect on future migration patterns.

For management purposes, the extent of likely migration along a stream reach can be identified using evidence of active stream channel movement over the past one hundred years. Evidence of active movement can be provided from historic and current aerial photos and maps and may require field analysis of specific channel and valley bottom characteristics in some cases. A time frame of one hundred years

was chosen because aerial photos, maps and field evidence can be used to evaluate movement in this time frame.

In some cases, river channels are prevented from normal or historic migration by human-made structures or other shoreline modifications. The definition of channel migration zone indicates that in defining the extent of a CMZ, local governments should take into account the river's characteristics and its surroundings. Unless otherwise demonstrated through scientific and technical information, the following characteristics should be considered when establishing the extent of the CMZ for management purposes:

- Within incorporated municipalities and urban growth areas, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement should not be considered within the channel migration zone.

- All areas separated from the active channel by a legally existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood, should not be considered to be in the channel migration zone.

- In areas outside incorporated municipalities and urban growth areas, channel constraints and flood control structures built below the one hundred-year flood elevation do not necessarily restrict channel migration and should not be considered to limit the channel migration zone unless demonstrated otherwise using scientific and technical information.

Master programs shall implement the following principles:

(i) Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures.

(ii) Base shoreline master program flood hazard reduction provisions on applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act and this chapter.

(iii) Consider integrating master program flood hazard reduction provisions with other regulations and programs, including (if applicable):

- Storm water management plans;
- Flood plain regulations, as provided for in chapter 86.16 RCW;
- Critical area ordinances and comprehensive plans, as provided in chapter 36.70A RCW; and
- The National Flood Insurance Program.

(iv) Assure that flood hazard protection measures do not result in a net loss of ecological functions associated with the rivers and streams.

(v) Plan for and facilitate returning river and stream corridors to more natural hydrological conditions. Recognize that seasonal flooding is an essential natural process.

(vi) When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.

(vii) Local governments are encouraged to plan for and facilitate removal of artificial restrictions to natural channel migration, restoration of off channel hydrological connec-

tions and return river processes to a more natural state where feasible and appropriate.

(c) **Standards.** Master programs shall implement the following standards within shoreline jurisdiction:

(i) Development in flood plains should not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW, provided the plan has been adopted after 1994 and approved by the department. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:

- Actions that protect or restore the ecosystem-wide processes or ecological functions.

- Forest practices in compliance with the Washington State Forest Practices Act and its implementing rules.

- Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur.

- Mining when conducted in a manner consistent with the environment designation and with the provisions of WAC 173-26-241 (3)(h).

- Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of watershed or drift cell.

- Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.

- Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

- Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

- Development in incorporated municipalities and designated urban growth areas, as defined in chapter 36.70A RCW, where existing structures prevent active channel movement and flooding.

- Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

(ii) Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate veg-

etation conservation actions are undertaken consistent with WAC 173-26-221(5).

Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the department that evaluates cumulative impacts to the watershed system.

(iii) Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. Provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

(iv) Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(v) Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with this chapter and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

(4) Public access.

(a) **Applicability.** Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) **Principles.** Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) **Planning process to address public access.** Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than applying uniform public access requirements to all development. This

planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation. The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may also justify more flexible off-site or special area public access provisions in the master program. Public participation requirements in WAC 173-26-201 (3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

(d) **Standards.** Shoreline master programs should implement the following standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-221 (4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-221 (4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local govern-

ments shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Assure that public access improvements do not result in a net loss of shoreline ecological functions.

(5) Shoreline vegetation conservation.

(a) **Applicability.** Vegetation conservation includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those other forest practice activities over which local governments have authority. As with all master program provisions, vegetation conservation provisions apply even to those shoreline uses and developments that are exempt from the requirement to obtain a permit. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures, such as existing agricultural practices.

(b) **Principles.** The intent of vegetation conservation is to protect and restore the ecological functions and ecosystem-wide processes performed by vegetation along shorelines. Vegetation conservation should also be undertaken to protect human safety and property, to increase the stability of river banks and coastal bluffs, to reduce the need for structural shoreline stabilization measures, to improve the visual and aesthetic qualities of the shoreline, to protect plant and animal species and their habitats, and to enhance shoreline uses.

Master programs shall include: Planning provisions that address vegetation conservation and restoration, and regulatory provisions that address conservation of vegetation; as necessary to assure no net loss of shoreline ecological functions and ecosystem-wide processes, to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion.

Local governments should address ecological functions and ecosystem-wide processes provided by vegetation as described in WAC 173-26-201 (3)(d)(i).

Local governments may implement these objectives through a variety of measures, where consistent with Shoreline Management Act policy, including clearing and grading regulations, setback and buffer standards, critical area regulations, conditional use requirements for specific uses or areas,

mitigation requirements, incentives and nonregulatory programs.

In establishing vegetation conservation regulations, local governments must use available scientific and technical information, as described in WAC 173-26-201 (2)(a). At a minimum, local governments should consult shoreline management assistance materials provided by the department and *Management Recommendations for Washington's Priority Habitats*, prepared by the Washington state department of fish and wildlife where applicable.

Current scientific evidence indicates that the length, width, and species composition of a shoreline vegetation community contribute substantively to the aquatic ecological functions. Likewise, the biota within the aquatic environment is essential to ecological functions of the adjacent upland vegetation. The ability of vegetated areas to provide critical ecological functions diminishes as the length and width of the vegetated area along shorelines is reduced. When shoreline vegetation is removed, the narrower the area of remaining vegetation, the greater the risk that the functions will not be performed.

In the Pacific Northwest, aquatic environments, as well as their associated upland vegetation and wetlands, provide significant habitat for a myriad of fish and wildlife species. Healthy environments for aquatic species are inseparably linked with the ecological integrity of the surrounding terrestrial ecosystem. For example, a nearly continuous corridor of mature forest characterizes the natural riparian conditions of the Pacific Northwest. Riparian corridors along marine shorelines provide many of the same functions as their freshwater counterparts. The most commonly recognized functions of the shoreline vegetation include, but are not limited to:

- Providing shade necessary to maintain the cool temperatures required by salmonids, spawning forage fish, and other aquatic biota.
- Providing organic inputs critical for aquatic life.
- Providing food in the form of various insects and other benthic macroinvertebrates.
- Stabilizing banks, minimizing erosion, and reducing the occurrence of landslides. The roots of trees and other riparian vegetation provide the bulk of this function.
- Reducing fine sediment input into the aquatic environment through storm water retention and vegetative filtering.
- Filtering and vegetative uptake of nutrients and pollutants from ground water and surface runoff.
- Providing a source of large woody debris into the aquatic system. Large woody debris is the primary structural element that functions as a hydraulic roughness element to moderate flows. Large woody debris also serves a pool-forming function, providing critical salmonid rearing and refuge habitat. Abundant large woody debris increases aquatic diversity and stabilization.
- Regulation of microclimate in the stream-riparian and intertidal corridors.
- Providing critical wildlife habitat, including migration corridors and feeding, watering, rearing, and refugia areas.

Sustaining different individual functions requires different widths, compositions and densities of vegetation. The

importance of the different functions, in turn, varies with the type of shoreline setting. For example, in forested shoreline settings, periodic recruitment of fallen trees, especially conifers, into the stream channel is an important attribute, critical to natural stream channel maintenance. Therefore, vegetated areas along streams which once supported or could in the future support mature trees should be wide enough to accomplish this periodic recruitment process.

Woody vegetation normally classed as trees may not be a natural component of plant communities in some environments, such as in arid climates and on coastal dunes. In these instances, the width of a vegetated area necessary to achieve the full suite of vegetation-related shoreline functions may not be related to vegetation height.

Local governments should identify which ecological processes and functions are important to the local aquatic and terrestrial ecology and conserve sufficient vegetation to maintain them. Such vegetation conservation areas are not necessarily intended to be closed to use and development but should provide for management of vegetation in a manner adequate to assure no net loss of shoreline ecological functions.

(c) **Standards.** Master programs shall implement the following requirements in shoreline jurisdiction.

Establish vegetation conservation standards that implement the principles in WAC 173-26-221 (5)(b). Methods to do this may include setback or buffer requirements, clearing and grading standards, regulatory incentives, environment designation standards, or other master program provisions. Selective pruning of trees for safety and view protection may be allowed and the removal of noxious weeds should be authorized.

Additional vegetation conservation standards for specific uses are included in WAC 173-26-241(3).

(b) **Water quality, storm water, and nonpoint pollution.**

(a) **Applicability.** The following section applies to all development and uses in shorelines of the state, as defined in WAC 173-26-020, that affect water quality.

(b) **Principles.** Shoreline master programs shall, as stated in RCW 90.58.020, protect against adverse impacts to the public health, to the land and its vegetation and wildlife, and to the waters of the state and their aquatic life, through implementation of the following principles:

(i) Prevent impacts to water quality and storm water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

(ii) Ensure mutual consistency between shoreline management provisions and other regulations that address water quality and storm water quantity, including public health, storm water, and water discharge standards. The regulations that are most protective of ecological functions shall apply.

(c) **Standards.** Shoreline master programs shall include provisions to implement the principles of this section.

NEW SECTION

WAC 173-26-231 Shoreline modifications. (1) **Applicability.** Local governments are encouraged to prepare mas-

ter program provisions that distinguish between shoreline modifications and shoreline uses. Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a cargo terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use).

The provisions in this section apply to all shoreline modifications within shoreline jurisdiction.

(2) **General principles applicable to all shoreline modifications.** Master programs shall implement the following principles:

(a) Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed principal structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

(b) Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.

(c) Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

(d) Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

(e) Where applicable, base provisions on scientific and technical information and a comprehensive analysis of drift cells for marine waters or reach conditions for river and stream systems. Contact the department for available drift cell characterizations.

(f) Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.

(g) Avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201 (2)(e).

(3) **Provisions for specific shoreline modifications.**

(a) **Shoreline stabilization.**

(i) **Applicability.** Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

(ii) **Principles.** Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby contribute to sustaining the natural resource and ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks and piers. The impacts of hardening any one property may be minimal but cumulatively the impact of this shoreline modification is significant.

Shoreline hardening typically results in adverse impacts to shoreline ecological functions such as:

- Beach starvation. Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach.

- Habitat degradation. Vegetation that shades the upper beach or bank is eliminated, thus degrading the value of the shoreline for many ecological functions, including spawning habitat for salmonids and forage fish.

- Sediment impoundment. As a result of shoreline hardening, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost and longshore transport is diminished. This leads to lowering of down-drift beaches, the narrowing of the high tide beach, and the coarsening of beach sediment. As beaches become more coarse, less prey for juvenile fish is produced. Sediment starvation may lead to accelerated erosion in down-drift areas.

- Exacerbation of erosion. The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, exacerbating erosion.

- Ground water impacts. Erosion control structures often raise the water table on the landward side, which leads to higher pore pressures in the beach itself. In some cases, this may lead to accelerated erosion of sand-sized material from the beach.

- Hydraulic impacts. Shoreline armoring generally increases the reflectivity of the shoreline and redirects wave energy back onto the beach. This leads to scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure of the structure.

- Loss of shoreline vegetation. Vegetation provides important "softer" erosion control functions. Vegetation is also critical in maintaining ecological functions.

- Loss of large woody debris. Changed hydraulic regimes and the loss of the high tide beach, along with the prevention of natural erosion of vegetated shorelines, lead to the loss of beached organic material. This material can increase biological diversity, can serve as a stabilizing influence on natural shorelines, and is habitat for many aquatic-based organisms, which are, in turn, important prey for larger organisms.

- Restriction of channel movement and creation of side channels. Hardened shorelines along rivers slow the movement of channels, which, in turn, prevents the input of larger woody debris, gravels for spawning, and the creation of side channels important for juvenile salmon rearing, and can result in increased floods and scour.

Additionally, hard structures, especially vertical walls, often create conditions that lead to failure of the structure. In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems. Failed bulkheads and walls adversely impact beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline ecological functions.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat and shoreline corridors. Therefore, master program shoreline stabilization provisions shall also be consistent with WAC 173-26-221(5), vegetation conservation, and where applicable, WAC 173-26-221(2), critical areas.

In order to implement RCW 90.58.100(6) and avoid or mitigate adverse impacts to shoreline ecological functions where shoreline alterations are necessary to protect single-family residences and principal appurtenant structures in danger from active shoreline erosion, master programs should include standards setting forth the circumstances under which alteration of the shoreline is permitted, and for the design and type of protective measures and devices.

(iii) **Standards.** In order to avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, master programs shall implement the above principles and apply the following standards:

(A) New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require

shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

(B) New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

(I) To protect existing principal structures:

- New or enlarged structural shoreline stabilization measures for an existing principal structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

- The erosion control structure will not result in a net loss of shoreline ecological functions.

(II) In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:

- The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

- Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

- The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.

- The erosion control structure will not result in a net loss of shoreline ecological functions.

(III) In support of water-dependent development when all of the conditions below apply:

- The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

- Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

- The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

- The erosion control structure will not result in a net loss of shoreline ecological functions.

(IV) To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW when all of the conditions below apply:

- Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

- The erosion control structure will not result in a net loss of shoreline ecological functions.

(C) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.

- The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

- Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

- Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.

- Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

- For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

(D) Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

(E) When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions.

- Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

- Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions; WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.

- Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment con-

veyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

(F) For erosion or mass wasting due to upland conditions, see WAC 173-26-221 (2)(c)(ii).

(b) **Piers and docks.** New piers and docks shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single-family residence is a water-dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section. Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.

New pier or dock construction, excluding docks accessory to single-family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

Where new piers or docks are allowed, master programs should contain provisions to require new residential development of two or more dwellings to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift. See WAC 173-26-221 (2)(c)(iii) and (iv). Master programs should require that structures be made of materials that have been approved by applicable state agencies.

(c) **Fill.** Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support a water-dependent use, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged material considered suitable under, and conducted in accordance with, the Puget Sound Dredge Dis-

posal Agreement, mitigation action, environmental restoration, beach nourishment or enhancement project. Fills waterward of the ordinary high-water mark for any use except ecological restoration should require a conditional use permit.

(d) **Breakwaters, jetties, groins, and weirs.** Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures should require a conditional use permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-26-201 (2)(e).

(e) **Beach and dunes management.** Washington's beaches and their associated dunes lie along the Pacific Ocean coast between Point Grenville and Cape Disappointment, and as shorelines of statewide significance are mandated to be managed from a statewide perspective by the act. Beaches and dunes within shoreline jurisdiction shall be managed to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beaches. Beaches and dunes should also be managed to reduce the hazard to human life and property from natural or human-induced actions associated with these areas.

Shoreline master programs in coastal marine areas shall provide for diverse and appropriate use of beach and dune areas consistent with their ecological, recreational, aesthetic, and economic values, and consistent with the natural limitations of beaches, dunes, and dune vegetation for development. Coastal master programs shall institute development setbacks from the shoreline to prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dune.

"Dune modification" is the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune's shape or sediment migration. Dune modification may be proposed for a number of purposes, including protection of property, flood and storm hazard reduction, erosion prevention, and ecological restoration.

Coastal dune modification shall be allowed only consistent with state and federal flood protection standards and when it will not result in a net loss of shoreline ecological functions or significant adverse impacts to other shoreline resources and values.

Dune modification to protect views of the water shall be allowed only on properties subdivided and developed prior to the adoption of the master program and where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy, and then only in conformance with the above provisions.

(f) **Dredging and dredge material disposal.** Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a

manner that assures no net loss of shoreline ecological functions.

New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. Dredging for the purpose of establishing, expanding, or relocating navigation channels and basins should be allowed only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width unless necessary to improve navigation.

Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project. Master programs should include provisions for uses of suitable dredge material that benefit shoreline resources. Where applicable, master programs should provide for the implementation of adopted regional interagency dredge material management plans or watershed management planning.

Disposal of dredge material into river channel migration zones within shoreline jurisdiction but outside harbor areas shall be discouraged. In the limited instances where it is allowed, such disposal shall require a conditional use permit.

(g) Shoreline habitat and natural systems enhancement projects. Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

Master programs should include provisions fostering habitat and natural system enhancement projects. Such projects may include shoreline modification actions such as modification of vegetation, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. Master program provisions should assure that the projects address legitimate restoration needs and priorities and facilitate implementation of the restoration plan developed pursuant to WAC 173-26-201 (2)(f).

NEW SECTION

WAC 173-26-241 Shoreline uses. (1) Applicability.

The provisions in this section apply to specific common uses and types of development to the extent they occur within shoreline jurisdiction. Master programs should include these, where applicable, and should include specific use provisions for other common uses and types of development in the jurisdiction. All uses and development must be consistent with the provisions of the environment designation in which they are located and the general regulations of the master program.

(2) General use provisions.

(a) Principles. Shoreline master programs shall implement the following principles:

(i) Establish a system of use regulations and environment designation provisions consistent with WAC 173-26-201 (2)(d) and 173-26-211 that gives preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.

(ii) Ensure that all shoreline master program provisions concerning proposed development of property are established, as necessary, to protect the public's health, safety, and welfare, as well as the land and its vegetation and wildlife, and to protect property rights while implementing the policies of the Shoreline Management Act.

(iii) Reduce use conflicts by including provisions to prohibit or apply special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's shoreline. In implementing this provision, preference shall be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

(iv) Establish use regulations designed to assure no net loss of ecological functions associated with the shoreline.

(b) Conditional uses.

(i) Master programs shall define the types of uses and development that require shoreline conditional use permits pursuant to RCW 90.58.100(5). Requirements for a conditional use permit may be used for a variety of purposes, including:

- To effectively address unanticipated uses that are not classified in the master program as described in WAC 173-27-030.

- To address cumulative impacts.

- To provide the opportunity to require specially tailored environmental analysis or design criteria for types of use or development that may otherwise be inconsistent with a specific environment designation within a master program or with the Shoreline Management Act policies.

In these cases, allowing a given use as a conditional use could provide greater flexibility within the master program than if the use were prohibited outright.

(ii) If master programs permit the following types of uses and development, they should require a conditional use permit:

(A) Uses and development that may significantly impair or alter the public's use of the water areas of the state.

(B) Uses and development which, by their intrinsic nature, may have a significant ecological impact on shoreline ecological functions or shoreline resources depending on location, design, and site conditions.

(C) Development in critical saltwater habitats.

(iii) The provisions of this section are minimum requirements and are not intended to limit local government's ability to identify other uses and developments within the master program as conditional uses where necessary or appropriate.

(3) Standards. Master programs shall establish a comprehensive program of use regulations for shorelines and

shall incorporate provisions for specific uses consistent with the following as necessary to assure consistency with the policy of the act and where relevant within the jurisdiction.

(a) Agriculture.

(i) For the purposes of this section, the terms agricultural activities, agricultural products, agricultural equipment and facilities and agricultural land shall have the specific meanings as provided in WAC 173-26-020.

(ii) Master programs shall not require modification of or limit agricultural activities occurring on agricultural lands. In jurisdictions where agricultural activities occur, master programs shall include provisions addressing new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and other development on agricultural land that does not meet the definition of agricultural activities.

(iii) Nothing in this section limits or changes the terms of the current exception to the definition of substantial development. A substantial development permit is required for any agricultural development not specifically exempted by the provisions of RCW 90.58.030 (3)(e)(iv).

(iv) Master programs shall use definitions consistent with the definitions found in WAC 173-26-020(3).

(v) New agricultural activities are activities that meet the definition of agricultural activities but are proposed on land not currently in agricultural use. Master programs shall include provisions for new agricultural activities to assure that:

(A) Specific uses and developments in support of agricultural use are consistent with the environment designation in which the land is located.

(B) Agricultural uses and development in support of agricultural uses, are located and designed to assure no net loss of ecological functions and to not have a significant adverse impact on other shoreline resources and values.

Measures appropriate to meet these requirements include provisions addressing water quality protection, and vegetation conservation, as described in WAC 173-26-220 (5) and (6). Requirements for buffers for agricultural development shall be based on scientific and technical information and management practices adopted by the applicable state agencies necessary to preserve the ecological functions and qualities of the shoreline environment.

(vi) Master programs shall include provisions to assure that development on agricultural land that does not meet the definition of agricultural activities, and the conversion of agricultural land to nonagricultural uses, shall be consistent with the environment designation, and the general and specific use regulations applicable to the proposed use and do not result in a net loss of ecological functions associated with the shoreline.

(b) Aquaculture. Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Local gov-

ernment should consider local ecological conditions and provide limits and conditions to assure appropriate compatible types of aquaculture for the local conditions as necessary to assure no net loss of ecological functions.

Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, commercial navigation, and, in marine waters, salinity. The technology associated with some forms of present-day aquaculture is still in its formative stages and experimental. Local shoreline master programs should therefore recognize the necessity for some latitude in the development of this use as well as its potential impact on existing uses and natural systems.

Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and macroalgae, or significantly conflict with navigation and other water-dependent uses. Aquacultural facilities should be designed and located so as not to spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline. Impacts to ecological functions shall be mitigated according to the mitigation sequence described in WAC 173-26-020.

(c) Boating facilities. For the purposes of this chapter, "boating facilities" excludes docks serving four or fewer single-family residences. Shoreline master programs shall contain provisions to assure no net loss of ecological functions as a result of development of boating facilities while providing the boating public recreational opportunities on waters of the state.

Where applicable, shoreline master programs should, at a minimum, contain:

(i) Provisions to ensure that boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.

(ii) Provisions that assure that facilities meet health, safety, and welfare requirements. Master programs may reference other regulations to accomplish this requirement.

(iii) Regulations to avoid, or if that is not possible, to mitigate aesthetic impacts.

(iv) Provisions for public access in new marinas, particularly where water-enjoyment uses are associated with the marina, in accordance with WAC 173-26-221(4).

(v) Regulations to limit the impacts to shoreline resources from boaters living in their vessels (live-aboard).

(vi) Regulations that assure that the development of boating facilities, and associated and accessory uses, will not result in a net loss of shoreline ecological functions or other significant adverse impacts.

(vii) Regulations to protect the rights of navigation.

(viii) Regulations restricting vessels from extended mooring on waters of the state except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

(d) Commercial development. Master programs shall first give preference to water-dependent commercial uses over nonwater-dependent commercial uses; and second, give

preference to water-related and water-enjoyment commercial uses over nonwater-oriented commercial uses.

The design, layout and operation of certain commercial uses directly affects their classification with regard to whether or not they qualify as water-related or water-enjoyment uses. Master programs shall assure that commercial uses that may be authorized as water-related or water-enjoyment uses are required to incorporate appropriate design and operational elements so that they meet the definition of water-related or water-enjoyment uses.

Master programs should require that public access and ecological restoration be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent commercial development unless such improvements are demonstrated to be infeasible or inappropriate. Where commercial use is proposed for location on land in public ownership, public access should be required. Refer to WAC 173-26-221(4) for public access provisions.

Master programs should prohibit nonwater-oriented commercial uses on the shoreline unless they meet the following criteria:

- (i) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
- (ii) Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

In areas designated for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.

Nonwater-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.

Master programs shall assure that commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.

(e) **Forest practices.** Local master programs should rely on the Forest Practices Act and rules implementing the act and the *Forest and Fish Report* as adequate management of commercial forest uses within shoreline jurisdiction. However, local governments shall, where applicable, apply this chapter to Class IV-General forest practices where shorelines are being converted or are expected to be converted to non-forest uses.

Forest practice conversions and other Class IV-General forest practices where there is a likelihood of conversion to nonforest uses, shall assure no net loss of shoreline ecological functions and shall maintain the ecological quality of the watershed's hydrologic system. Master programs shall establish provisions to ensure that all such practices are conducted in a manner consistent with the master program environment designation provisions and the provisions of this chapter. Applicable shoreline master programs should contain provi-

sions to ensure that when forest lands are converted to another use, there will be no net loss of shoreline ecological functions or significant adverse impacts to other shoreline uses, resources and values provided for in RCW 90.58.020 such as navigation, recreation and public access.

Master programs shall implement the provisions of RCW 90.58.150 regarding selective removal of timber harvest on shorelines of statewide significance. Exceptions to this standard shall be by conditional use permit only.

Lands designated as "forest lands" pursuant to RCW 36.70A.170 shall be designated consistent with either the "natural," "rural conservancy," environment designation.

Where forest practices fall within the applicability of the Forest Practices Act, local governments should consult with the department of natural resources, other applicable agencies, and local timber owners and operators.

(f) **Industry.** Master programs shall first give preference to water-dependent industrial uses over nonwater-dependent industrial uses; and second, give preference to water-related industrial uses over nonwater-oriented industrial uses.

Regional and statewide needs for water-dependent and water-related industrial facilities should be carefully considered in establishing master program environment designations, use provisions, and space allocations for industrial uses and supporting facilities. Lands designated for industrial development should not include shoreline areas with severe environmental limitations, such as critical areas.

Where industrial development is allowed, master programs shall include provisions that assure that industrial development will be located, designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.

Master programs should require that industrial development consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC 173-26-221(4).

Where industrial use is proposed for location on land in public ownership, public access should be required. Industrial development and redevelopment should be encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated. New nonwater-oriented industrial development should be prohibited on shorelines except when:

- (i) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
- (ii) Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

In areas designated for industrial use, nonwater-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.

(g) **In-stream structural uses.** "In-stream structure" means a structure placed by humans within a stream or river waterward of the ordinary high-water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

In-stream structures shall provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

(h) **Mining.** Mining is the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Historically, the most common form of mining in shoreline areas is for sand and gravel because of the geomorphic association of rivers and sand and gravel deposits. Mining in the shoreline generally alters the natural character, resources, and ecology of shorelines of the state and may impact critical shoreline resources and ecological functions of the shoreline. However, in some circumstances, mining may be designed to have benefits for shoreline resources, such as creation of off channel habitat for fish or habitat for wildlife. Activities associated with shoreline mining, such as processing and transportation, also generally have the potential to impact shoreline resources unless the impacts of those associated activities are evaluated and properly managed in accordance with applicable provisions of the master program.

A shoreline master program should accomplish two purposes in addressing mining. First, identify where mining may be an appropriate use of the shoreline, which is addressed in this section and in the environment designation sections above. Second, ensure that when mining or associated activities in the shoreline are authorized, those activities will be properly sited, designed, conducted, and completed so that it will cause no net loss of ecological functions of the shoreline.

(i) Identification of shoreline areas where mining may be designated as appropriate shall:

(A) Be consistent with the environment designation provisions of WAC 173-26-211 and where applicable WAC 173-26-251(2) regarding shorelines of statewide significance; and

(B) Be consistent with local government designation of mineral resource lands with long-term significance as provided for in RCW 36.70A.170 (1)(c), 36.70A.130, and 36.70A.131; and

(C) Be based on a showing that mining is dependent on a shoreline location in the city or county, or portion thereof, which requires evaluation of geologic factors such as the distribution and availability of mineral resources for that jurisdiction, as well as evaluation of need for such mineral

resources, economic, transportation, and land use factors. This showing may rely on analysis or studies prepared for purposes of GMA designations, be integrated with any relevant environmental review conducted under SEPA (chapter 43.21C RCW), or otherwise be shown in a manner consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a).

(ii) Master programs shall include policies and regulations for mining, when authorized, that accomplish the following:

(A) New mining and associated activities shall be designed and conducted to comply with the regulations of the environment designation and the provisions applicable to critical areas where relevant. Accordingly, meeting the no net loss of ecological function standard shall include avoidance and mitigation of adverse impacts during the course of mining and reclamation. It is appropriate, however, to determine whether there will be no net loss of ecological function based on evaluation of final reclamation required for the site. Preference shall be given to mining proposals that result in the creation, restoration, or enhancement of habitat for priority species.

(B) Master program provisions and permit requirements for mining should be coordinated with the requirements of chapter 78.44 RCW.

(C) Master programs shall assure that proposed subsequent use of mined property is consistent with the provisions of the environment designation in which the property is located and that reclamation of disturbed shoreline areas provides appropriate ecological functions consistent with the setting.

(D) Mining within the active channel or channels (a location waterward of the ordinary high-water mark) of a river shall not be permitted unless:

(I) Removal of specified quantities of sand and gravel or other materials at specific locations will not adversely affect the natural processes of gravel transportation for the river system as a whole; and

(II) The mining and any associated permitted activities will not have significant adverse impacts to habitat for priority species nor cause a net loss of ecological functions of the shoreline.

(III) The determinations required by (h)(ii)(D)(I) and (II) of this subsection shall be made consistent with RCW 90.58.100(1) and WAC 173-26-201 (2)(a). Such evaluation of impacts should be appropriately integrated with relevant environmental review requirements of SEPA (chapter 43.21C RCW) and the SEPA rules (chapter 197-11 WAC).

(IV) In considering renewal, extension or reauthorization of gravel bar and other in-channel mining operations in locations where they have previously been conducted, local government shall require compliance with this subsection (D) to the extent that no such review has previously been conducted. Where there has been prior review, local government shall review previous determinations comparable to the requirements of this section to assure compliance with this subsection (D) under current site conditions.

(V) The provisions of this section do not apply to dredging of authorized navigation channels when conducted in accordance with WAC 173-26-231 (3)(f).

(E) Mining within any channel migration zone that is within Shoreline Management Act jurisdiction shall require a shoreline conditional use permit.

(i) **Recreational development.** Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Master programs should assure that shoreline recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state. Commercial recreational development should be consistent with the provisions for commercial development in (d) of this subsection. Provisions related to public recreational development shall assure that the facilities are located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located and such that no net loss of shoreline ecological functions or ecosystem-wide processes results.

In accordance with RCW 90.58.100(4), master program provisions shall reflect that state-owned shorelines are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational uses for the public and give appropriate special consideration to the same.

For all jurisdictions planning under the Growth Management Act, master program recreation policies shall be consistent with growth projections and level-of-service standards established by the applicable comprehensive plan.

(j) **Residential development.** Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division.

Master programs shall include policies and regulations that assure no net loss of shoreline ecological functions will result from residential development. Such provisions should include specific regulations for setbacks and buffer areas, density, shoreline armoring, vegetation conservation requirements, and, where applicable, on-site sewage system standards for all residential development and uses and applicable to divisions of land in shoreline jurisdiction.

Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW 90.58.100(6).)

New over-water residences, including floating homes, are not a preferred use and should be prohibited. It is recognized that certain existing communities of floating and/or over-water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary

to assure consistency with constitutional and other legal limitations that protect private property.

New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter.

Master programs shall include standards for the creation of new residential lots through land division that accomplish the following:

(i) Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.

(ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

(iii) Implement the provisions of WAC 173-26-211 and 173-26-221.

(k) **Transportation and parking.** Master programs shall include policies and regulations to provide safe, reasonable, and adequate circulation systems to shorelines.

Transportation and parking plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.

Circulation system planning shall include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.

Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction.

Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use. Shoreline master programs shall include policies and regulations to minimize the environmental and visual impacts of parking facilities.

(l) **Utilities.** These provisions apply to services and facilities that produce, convey, store, or process power, gas, sewage, communications, oil, waste, and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

Master programs shall include provisions to assure that:

All utility facilities are designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities, that are nonwater-oriented shall not be allowed in

shoreline areas unless it can be demonstrated that no other feasible option is available.

Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.

Utilities should be located in existing rights of way and corridors whenever possible.

Development of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

NEW SECTION

WAC 173-26-251 Shorelines of statewide significance. (1) **Applicability.** The following section applies to local governments preparing master programs that include shorelines of statewide significance as defined in RCW 90.58.030.

(2) **Principles.** Chapter 90.58 RCW raises the status of shorelines of statewide significance in two ways. First, the Shoreline Management Act sets specific preferences for uses of shorelines of statewide significance. RCW 90.58.020 states:

"The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) *Recognize and protect the statewide interest over local interest;*
- (2) *Preserve the natural character of the shoreline;*
- (3) *Result in long term over short term benefit;*
- (4) *Protect the resources and ecology of the shoreline;*
- (5) *Increase public access to publicly owned areas of the shorelines;*
- (6) *Increase recreational opportunities for the public in the shoreline;*
- (7) *Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary."*

Second, the Shoreline Management Act calls for a higher level of effort in implementing its objectives on shorelines of statewide significance. RCW 90.58.090(5) states:

"The department shall approve those segments of the master program relating to shorelines of statewide significance only after determining the program provides the optimum implementation of the policy of this chapter to satisfy the statewide interest."

Optimum implementation involves special emphasis on statewide objectives and consultation with state agencies.

The state's interests may vary, depending upon the geographic region, type of shoreline, and local conditions. Optimum implementation may involve ensuring that other comprehensive planning policies and regulations support Shoreline Management Act objectives.

Because shoreline ecological resources are linked to other environments, implementation of ecological objectives requires effective management of whole ecosystems. Optimum implementation places a greater imperative on identifying, understanding, and managing ecosystem-wide processes and ecological functions that sustain resources of statewide importance.

(3) **Master program provisions for shorelines of statewide significance.** Because shorelines of statewide significance are major resources from which all people of the state derive benefit, local governments that are preparing master program provisions for shorelines of statewide significance shall implement the following:

(a) **Statewide interest.** To recognize and protect statewide interest over local interest, consult with applicable state agencies, affected Indian tribes, and statewide interest groups and consider their recommendations in preparing shoreline master program provisions. Recognize and take into account state agencies' policies, programs, and recommendations in developing use regulations. For example, if an anadromous fish species is affected, the Washington state departments of fish and wildlife and ecology and the governor's salmon recovery office, as well as affected Indian tribes, should, at a minimum, be consulted.

(b) **Preserving resources for future generations.** Prepare master program provisions on the basis of preserving the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited. Where natural resources of statewide importance are being diminished over time, master programs shall include provisions to contribute to the restoration of those resources.

(c) **Priority uses.** Establish shoreline environment designation policies, boundaries, and use provisions that give preference to those uses described in RCW 90.58.020 (1) through (7). More specifically:

(i) Identify the extent and importance of ecological resources of statewide importance and potential impacts to those resources, both inside and outside the local government's geographic jurisdiction.

(ii) Preserve sufficient shorelands and submerged lands to accommodate current and projected demand for economic resources of statewide importance, such as commercial shellfish beds and navigable harbors. Base projections on statewide or regional analyses, requirements for essential public facilities, and comment from related industry associations, affected Indian tribes, and state agencies.

(iii) Base public access and recreation requirements on demand projections that take into account the activities of state agencies and the interests of the citizens of the state to visit public shorelines with special scenic qualities or cultural or recreational opportunities.

PROPOSED

(d) **Resources of statewide importance.** Establish development standards that:

(i) Ensure the long-term protection of ecological resources of statewide importance, such as anadromous fish habitats, forage fish spawning and rearing areas, shellfish beds, and unique environments. Standards shall consider incremental and cumulative impacts of permitted development and include provisions to insure no net loss of shoreline ecosystems and ecosystem-wide processes.

(ii) Provide for the shoreline needs of water-oriented uses and other shoreline economic resources of statewide importance.

(iii) Provide for the right of the public to use, access, and enjoy public shoreline resources of statewide importance.

(e) **Comprehensive plan consistency.** Assure that other local comprehensive plan provisions are consistent with and support as a high priority the policies for shorelines of statewide significance. Specifically, shoreline master programs should include policies that incorporate the priorities and optimum implementation directives of chapter 90.58 RCW into comprehensive plan provisions and implementing development regulations.

PART IV

~~((GUIDELINES — OPTIONAL APPROACH))~~

OCEAN MANAGEMENT

~~((PART V~~

~~OCEAN MANAGEMENT))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-26-170	Purpose of Part III.
WAC 173-26-180	Applicability of Part III.
WAC 173-26-190	Master program contents.
WAC 173-26-200	Comprehensive process to prepare or amend shoreline master programs.
WAC 173-26-210	Environment designation system.
WAC 173-26-220	General master program provisions.
WAC 173-26-230	Shoreline modifications.
WAC 173-26-240	Shoreline uses.
WAC 173-26-250	Shorelines of statewide significance.
WAC 173-26-270	Purpose of Part IV.
WAC 173-26-280	Applicability of Part IV.
WAC 173-26-290	Master program contents.

WAC 173-26-300	Comprehensive process to prepare or amend shoreline master programs.
WAC 173-26-310	Environment designation system.
WAC 173-26-320	General master program provisions.
WAC 173-26-330	Shoreline modifications.
WAC 173-26-340	Shoreline uses.
WAC 173-26-350	Shorelines of statewide significance.

WSR 03-14-016

**WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH**

[Filed June 19, 2003, 3:46 p.m.]

The department is withdrawing the CR-102 for WAC 246-320-010 and 246-320-370 which were filed June 4, 2003, and published in WSR 94-09-041 [03-12-090]. The original proposal was to develop a rule for hospitals that provide emergency care to victims of sexual assault to provide the victim with written and oral information about emergency contraception, inform victims of the option to be provided emergency contraception, and to provide emergency contraception immediately if requested by the victim. Since the filing of WSR 03-12-090, the department has been informed of potential unanticipated controversy. The department would like additional time to work in cooperation with stakeholders to resolve issues before continuing with the formal rule-making process. For this reason, the CR-102 for WAC 246-320-010 and 246-320-370 is no longer needed.

Individuals requiring information on this rule should contact Yvette Harrison, Rules Coordinator, Facilities and Services Licensing, at (360) 236-2928 or yvette.harrison@doh.wa.gov.

Eric Stagle
Deputy Secretary
for Mary C. Selecky
Secretary

WSR 03-14-033

**PROPOSED RULES
DEPARTMENT OF HEALTH**

(Board of Hearing and Speech)

[Filed June 23, 2003, 2:23 p.m.]

Original Notice.
Preproposal statement of inquiry was filed as WSR 02-02-041.
Title of Rule: WAC 246-828-020 Examinations.

Purpose: This rule sets the specific examination requirements for licensing audiologists, speech-language pathologists and hearing instrument fitter-dispensers.

Statutory Authority for Adoption: RCW 18.35.161.

Statute Being Implemented: RCW 18.35.050.

Summary: The proposed amendments reflect the Board of Hearing and Speech's adoption of a national examination for hearing instrument fitter-dispenser applicants, and eliminates the double examination requirement for audiology applicants who have been required to complete two examinations to be eligible for licensure.

Reasons Supporting Proposal: The changes provide clarification regarding the hearing instrument fitter-dispenser examination and eliminate an unnecessary licensure barrier for audiologists.

Name of Agency Personnel Responsible for Drafting and Implementation: Diane Young, 310 Israel Road S.E., P.O. Box 47869, Olympia, WA 98504-7869, (360) 236-4950; and **Enforcement:** Kitty Slater, 310 Israel Road S.E., P.O. Box 47869, Olympia, WA 98504-7869, (360) 236-4925.

Name of Proponent: Board of Hearing and Speech, Washington Society of Audiology and Washington Hearing and Speech Association, private and governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 246-828-020 Examinations, the proposed amendments reflect the Board of Hearing and Speech's adoption of a national examination for hearing instrument fitter-dispenser applicants, and eliminates the double examination requirement for audiology applicants who have been required to complete two examinations to be eligible for licensure. The changes provide clarification regarding the hearing instrument fitter-dispenser examination and eliminate an unnecessary licensure barrier for audiologists.

Proposal Changes the Following Existing Rules: The changes to the rule provide further and current clarification regarding the required examination for hearing instrument fitter-dispenser licensure. The proposed amendment provides the applicants for hearing instrument fitter-dispenser licensure information that the examination, approved by the Board of Hearing and Speech, is the International Institute for Hearing Instrument Studies (IIHIS) licensing examination.

The changes also eliminate the requirement that applicants for audiology licensure complete the National Examination in Audiology and the International Institute for Hearing Instrument Studies Licensing Examination. This proposed change would eliminate the licensing barrier of an unnecessary double requirement.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Background: Chapter 18.35 RCW regulates the practice of hearing and speech services in the state of Washington. The intentions of hearing and speech regulation are to protect the public from being misled by incompetent, unethical and/or unauthorized persons; to assure the availability of hearing and speech services of high quality to persons in

need; and to assure the highest degree of professional conduct and competency in the delivery of hearing and speech services.

Under RCW 18.35.161, the Board of Hearing and Speech is empowered to establish qualifications and define education, training, and examination requirements of audiologists, speech-language pathologists, and hearing instrument fitters/dispensers. Ultimately, the board establishes rules that it considers are appropriate for the protection of consumers of hearing and speech services.

Purpose and Objective: The Board of Hearing and Speech is proposing rule changes that will:

- Add clarity to the examination requirements for audiologists and hearing instrument fitters and dispensers.
- Eliminate redundancy in the examination requirements for audiologists.
- Update existing language to reflect current protocols and requirements.
- Ensure that all hearing and speech professionals are competent and capable in their respective fields.
- Improve the overall quality of care provided by all hearing and speech professionals.

Rule-making Requirements of the Regulatory Fairness Act (chapter 19.85 RCW): The Regulatory Fairness Act, RCW 19.85.030 requires the department to conduct a small business economic impact statement (SBEIS) for proposed rules that have more than minor impact on small businesses. As defined in RCW 19.85.020 a small business is "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."

What does the proposed rule amendment do? The proposed rule changes provide clear, concise standards for the examination of audiologists, hearing instrument fitters/dispensers, and speech-language pathologists. The proposed amendment directly affects audiologists and hearing instrument fitters/dispensers in the following ways:

- Specifies the required examination for hearing instrument fitters/dispensers to be administered by the International Institute for Hearing Instrument Studies (IIHIS), with a passing score determined by national standards. This change updates existing language to reflect current protocol and practice.
- Removes the requirement for audiologists to take the written hearing instrument fitter/dispenser examination. This deletion eliminates a redundancy in examination and eliminates a barrier for audiologists seeking licensure.
- Removes the use of written examinations administered by another licensing jurisdiction. This requirement is deleted as a result of the written examination no longer being administered by the board, which was replaced by the standardized IIHIS examination.
- Changes the language from "certificate" to "license," to reflect current statutes and definitions.

Affected Industries/Disproportionate Impact: In preparing this small business economic impact statement

PROPOSED

(SBEIS), the Department of Health used the following SIC codes:

SIC	Description	MINOR IMPACT THRESH.
8011	Offices and clinics of medical doctor	\$ 66.10
8031	Offices of osteopathic physicians	\$ 66.10
8049	Offices of health practitioners, nec	\$ 66.10
8051	Skilled nursing care facilities	\$ 195.64
8052	Intermediate care facilities	\$ 66.10
8062	General medical and surgical hospital	\$ 396.57
8082	Home health care services	\$ 122.94
8093	Specialty outpatient clinics, nec	\$ 116.33
8099	Health and allied services, nec	\$ 66.10

These eleven SIC codes indicate a minor impact threshold of \$66.10 - \$396.57. The estimated cost to health care practitioners for amending these rules is zero. Therefore, there is no disproportionate cost to small business.

Instead, immediate and direct savings are expected for audiologists, as they will now have to register, pay for, and successfully pass only one examination rather than two, as previously required. This will alleviate a great burden on audiologists, and result in a reduction in lost wages and alternative time costs spent on registration, preparation, fees, and successfully passing the examination. In the end, savings is expected on all sides by all parties involved: Audiologists, health professionals, and the consumers of hearing and speech services, the people of the state of Washington.

A copy of the statement may be obtained by writing to Diane Young, Board of Hearing and Speech, P.O. Box 47869, Olympia, WA 98504-7869, phone (360) 236-4950, fax (360) 236-2406.

RCW 34.05.328 applies to this rule adoption. The proposed changes to WAC 246-828-020 are significant.

Hearing Location: Department of Health, 310 Israel Road S.E., Conference Room 1-6-152, Tumwater, WA 98501, on August 15, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Kitty Slater by August 1, 2003, TDD (800) 833-6388 or (360) 236-4925.

Submit Written Comments to: Diane Young, Board of Hearing and Speech, P.O. Box 47869, Olympia, WA 98504-7869, fax (360) 236-2406, by August 10, 2003.

Date of Intended Adoption: August 15, 2003.

June 13, 2003

Kim Coy, Chair

Board of Hearing and Speech

AMENDATORY SECTION (Amending WSR 98-13-110, filed 6/17/98, effective 7/18/98)

WAC 246-828-020 Examinations. (1) The examination required of hearing instrument fitter/dispenser license applicants shall be ~~((a written examination))~~ the International Institute for Hearing Instrument Studies (IIHIS) including a passing score according to standards established by the International Hearing Society.

~~((a) The minimum passing grade shall be seventy or greater to pass the required examination for licensure.~~

~~(b))~~ Applications for examinations shall be received by the department at least sixty days prior to the date of the scheduled examination. If the application is received less than sixty days before the next scheduled examination, the applicant will be scheduled for the second examination following receipt of the application.

~~((c) A national examination or examination administered by another licensing jurisdiction approved by the board may be accepted in lieu of the board's written examination.))~~

(2) The examination required of ~~((all))~~ audiology ~~((certificate))~~ license applicants shall be the National Examination in Audiology (NESPA), including a passing examination score of six hundred or greater ~~((and written hearing instrument fitter/dispenser examination described in subsection (1) of this section, including a passing examination score of seventy or greater)).~~

(3) The examination required of speech-language pathologist ~~((certificate))~~ license applicants shall be the National Examination in Speech Language Pathology (NESPA), including a passing examination score of six hundred or greater.

WSR 03-14-063
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Office of the Secretary)
[Filed June 25, 2003, 4:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-087.

Title of Rule: WAC 388-01-030 What DSHS records are available?

Purpose: Amendments to this rule will clarify: Which DSHS records are available to the public by law; which public records are not generally available and are confidential; that an individual may have access to a confidential record about him or herself, or how an authorized representative of the individual may have such access; and, which DSHS records are available without a public disclosure request.

Statutory Authority for Adoption: RCW 42.17.250 and 42.17.260.

Statute Being Implemented: RCW 42.17.250, 42.17-260, and 42.17.300.

Summary: See Purpose above.

Reasons Supporting Proposal: The proposed rule will clarify which DSHS records may be available to the public and which records may be available to an individual.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Bernie H. Friedman, Department of Social and Health Services, Office of the Secretary, P.O. Box 45010, Olympia, WA 98504-5010, (360) 902-7860.

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

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule clarifies department record disclosure policy and does not create new costs for small business.

RCW 34.05.328 does not apply to this rule adoption. The proposed rule describes the department's policy pertaining to consistent internal operations, and is a "procedural rule" under RCW 34.05.328 (5)(c)(i)(C). The rule is not a "significant legislative rule" as defined in RCW 34.05.328, and the provisions of this statute do not apply.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by July 29, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Rules Coordinator, Department of Social and Health Services, Rules and Policies Assistance Unit, delivered to 4500 10th Avenue S.E., Lacey, WA, mail to P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, or e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 5, 2003.

Date of Intended Adoption: Not earlier than August 6, 2003.

June 23, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-15-065, filed 7/19/99, effective 8/19/99)

WAC 388-01-030 What ~~((department))~~ DSHS records are ~~((considered public))~~ available? (1) ~~((Public records are those records that are not confidential or otherwise exempt from release to the public.))~~ DSHS prepares and keeps public records that relate to the programs it administers. All records DSHS uses to conduct business are public records.

~~((2) Different types of))~~ DSHS public records may include((:)), documents, audio and video recordings, pictures, ~~((electronic disks, and magnetic tapes))~~ e-mail, computer disks and electronic data.

(2) DSHS records are available to the public unless a law exempts them from disclosure. Some DSHS records contain confidential information that is not available to everyone.

(3) You, or someone authorized to act for you or by you, may have access to confidential records about you that would otherwise be exempt from disclosure to the public.

(4) Upon your request, DSHS may give you records such as rules, policies, indexes, interpretive statements, pamphlets, forms and other publications at cost under WAC 388-01-180 without using the public records disclosure process.

WSR 03-14-064

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed June 25, 2003, 4:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-086.

Title of Rule: Part 1 of 3, chapter 388-538 WAC, Managed care; amending WAC 388-538-050 Definitions, 388-538-060 Managed care and choice, 388-538-070 Managed care payment, and 388-538-095 Scope of care for managed care enrollees, and repealing WAC 388-538-080 Managed care exemptions.

Purpose: To bring the managed care program into compliance with the federal Balanced Budget Act (BBA) of 1997. The department is also amending and adding definitions, updating incorrect cross-references and enrollment criteria, updating payment methodologies, consolidating exemptions listed in WAC 388-535-080 into 388-538-130, amending the scope of services to comply with the BBA, and adding information from the healthy options/state children's insurance program (SCHIP) contract about emergency services.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.522.

Statute Being Implemented: RCW 74.09.080, 74.09.-510, 74.09.522, 74.09.450, 42 C.F.R. 438.400 through 420.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Ann Myers, P.O. Box 45533, Olympia, WA 98504, (360) 725-1345; Implementation and Enforcement: Michael Paulson, P.O. Box 45530, Olympia, WA 98504, (360) 725-1641.

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

Rule is necessary because of federal law, 42 C.F.R. 438.400 through 420.

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

The purpose is to meet federal requirements, update policies regarding payment methodology and enrollment criteria, and clarify existing policy.

The anticipated effect is compliance with federal requirements and easier to understand rules.

Proposal Changes the Following Existing Rules: This rule changes and adds to existing definitions, amends enrollment criteria, amends payment methodology, and further explains emergency services. WAC 388-538-080 will be repealed.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules, and, to the best of the department's knowledge, the businesses affected by the rule employ more than fifty employees. The affected businesses therefore do not meet the definition of a small business in RCW 19.85.020, and a statement is not required.

RCW 34.05.328 applies to this rule adoption. The department has determined that while the proposed rule

meets the definition of a "significant legislative rule," amended WAC 388-538-050 is exempt under RCW 34.05.328 (5)(b)(iii) because the amendments to this section are to comply with federal Balanced Budget Act requirements.

WAC 388-538-060, 388-538-070, and 388-538-095 are amended to clarify policy and do not make significant changes to that policy. The department has analyzed the proposed amendments and concludes that the probable benefits are greater than the probable costs. A copy of the cost/benefit analysis memo is available from the department representative named above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by July 15, 2003, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensFH@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, delivered to 4500 10th Avenue S.E., Lacey, WA, mail to P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, or e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 5, 2003.

Date of Intended Adoption: Not sooner than August 6, 2003.

June 23, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-050 Definitions. The following definitions and abbreviations and those found in WAC 388-500-0005, Medical definitions, apply to this chapter.

"Action" means:

(1) The denial or limited authorization of a requested service, including the type or level of service;

(2) The reduction, suspension, or termination of a previously authorized service;

(3) The denial, in whole or in part, of payment for a service;

(4) The failure to provide services in a timely manner, as defined by the state; or

(5) The failure of an MCO to act within the timeframes provided in 42 C.F.R. 438.408(b).

"Ancillary health services" means health services ordered by a provider, including but not limited to, laboratory services, radiology services, and physical therapy.

"Appeal" means a ~~((format))~~ request by a provider or covered enrollee for reconsideration of ~~((a decision such as a utilization review recommendation, a benefit payment, an administrative action, or a quality of care or service issue, with the goal of finding a mutually acceptable solution))~~ an action. The reconsideration includes independent review under RCW 48.43.535.

"Assign" or "assignment" means that MAA selects a managed care organization (MCO) or primary care case management (PCCM) provider to serve a client who lives in a mandatory enrollment area and who has failed to select an MCO or PCCM provider.

"Basic health (BH)" means the health care program authorized by chapter 70.47 RCW and administered by the health care authority (HCA). MAA considers basic health to be third-party coverage, however, this does not include basic health plus (BH+).

~~(("Children's health insurance program (CHIP)" means the health insurance program authorized by Title XXI of the Social Security Act and administered by the department of social and health services (DSHS). This program also is referred to as the state children's health insurance program (SCHIP).))~~

"Children with special health care needs" means children identified by the department of social and health services (DSHS) as having special health care needs. This includes:

(1) Children designated as having special health care needs by the department of health (DOH) and served under the Title V program;

(2) Children who meet disability criteria of Title 16 of the Social Security Act (SSA); and

(3) Children who are in foster care or who are served under subsidized adoption.

"Client" means an individual eligible for any medical program who is not enrolled with a managed care organization (MCO) or primary care case management (PCCM) provider. In this chapter, client refers to a person before the person is enrolled in managed care, while enrollee refers to an individual eligible for any medical program who is enrolled in managed care.

~~(("Complaint" means an oral or written expression of dissatisfaction by an enrollee.))~~

"Emergency medical condition" means a condition meeting the definition in ~~((42 U.S.C. 1396u-2 (b)(2)(C)))~~ 42 C.F.R. 438.114(a).

"Emergency services" means services as defined in ~~((42 U.S.C. 1396u-2 (b)(2)(B)))~~ 42 C.F.R. 438.114(a).

"End enrollment" means an enrollee is currently enrolled in managed care, either with a managed care organization (MCO) or with a primary care case management (PCCM) provider, and requests to discontinue enrollment and return to the fee-for-service delivery system for one of the reasons outlined in WAC 388-538-130. This is also referred to as "disenrollment."

"Enrollee" means an individual eligible for any medical program who is enrolled in managed care through a ~~((managed))~~ managed care organization (MCO) or primary care case management (PCCM) provider that has a contract with the state.

"Enrollees with ~~((chronic conditions))~~ special health care needs" means persons having chronic and disabling conditions, including persons with special health care needs that meet all of the following conditions:

(1) Have a biologic, psychologic, or cognitive basis;

(2) Have lasted or are virtually certain to last for at least one year; and

(3) Produce one or more of the following conditions stemming from a disease:

(a) Significant limitation in areas of physical, cognitive, or emotional function;

(b) Dependency on medical or assistive devices to minimize limitation of function or activities; or

(c) In addition, for children, any of the following:

(i) Significant limitation in social growth or developmental function;

(ii) Need for psychological, educational, medical, or related services over and above the usual for the child's age; or

(iii) Special ongoing treatments, such as medications, special diet, interventions, or accommodations at home or school.

"Exemption" means a client, not currently enrolled in managed care, makes a preenrollment request to remain in the fee-for-service delivery system for one of the reasons outlined in WAC ((388-538-080)) 388-538-130.

"Grievance" means an expression of dissatisfaction about any matter other than an action, as "action" is defined in this section.

"Grievance system" means the overall system that includes grievances and appeals handled at the MCO level and access to the state fair hearing process.

"Health care service" or "service" means a service or item provided for the prevention, cure, or treatment of an illness, injury, disease, or condition.

"Healthy options contract or HO contract" means the agreement between the department of social and health services (DSHS) and a managed care organization (MCO) to provide prepaid contracted services to enrollees.

"Healthy options program or HO program" means the medical assistance administration's (MAA) prepaid managed care health program for Medicaid-eligible clients and CHIP clients.

"Managed care" means a comprehensive system of medical and health care delivery including preventive, primary, specialty, and ancillary health services. These services are provided either through a managed care organization (MCO) or primary care case management (PCCM) provider.

"Managed care organization" or "MCO" means ((a health maintenance organization or health care service contractor)) an organization having a certificate of authority or certificate of registration from the office of insurance commissioner that contracts with the department of social and health services (DSHS) under a comprehensive risk contract to provide prepaid health care services to eligible medical assistance administration (MAA) clients under MAA's managed care programs.

"Nonparticipating provider" means a person or entity that does not have a written agreement with a managed care organization (MCO) but that provides MCO-contracted health care services to managed care enrollees with the authorization of the MCO. The MCO is solely responsible for payment for MCO-contracted health care services that are autho-

rized by the MCO and provided by nonparticipating providers.

"Participating provider" means a person or entity with a written agreement with a managed care organization (MCO) to provide health care services to managed care enrollees. A participating provider must look solely to the MCO for payment for such services.

"Primary care case management (PCCM)" means the health care management activities of a provider that contracts with the department to provide primary health care services and to arrange and coordinate other preventive, specialty, and ancillary health services.

"Primary care provider (PCP)" means a person licensed or certified under Title 18 RCW including, but not limited to, a physician, an advanced registered nurse practitioner (ARNP), or a physician assistant who supervises, coordinates, and provides health services to a client or an enrollee, initiates referrals for specialist and ancillary care, and maintains the client's or enrollee's continuity of care.

"Prior authorization (PA)" means a process by which enrollees or providers must request and receive MAA approval for services provided through MAA's fee-for-service program, or MCO approval for services provided through the MCO, for certain medical services, equipment, drugs, and supplies, based on medical necessity, before the services are provided to clients, as a precondition for provider reimbursement. Expedited prior authorization and limitation extension are forms of prior authorization. See WAC 388-501-0165.

"Timely" - in relation to the provision of services, means an enrollee has the right to receive medically necessary health care ((without unreasonable delay)) as expeditiously as the enrollee's health condition requires. In relation to authorization of services and grievances and appeals, means in accordance with the Healthy Options (HO)/State Childrens Health Insurance Program (SCHIP) contract and the timeframes stated in this chapter.

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-060 Managed care and choice. (1) MAA requires a client ((is required)) to enroll in managed care when that client meets all of the following conditions:

(a) Is eligible for one of the medical programs for which clients must enroll in managed care;

(b) Resides in an area, determined by the medical assistance administration (MAA), where clients must enroll in managed care;

(c) Is not exempt from managed care enrollment as determined by MAA, consistent with WAC ((388-538-080)) 388-538-130, and any related fair hearing has been held and decided; and

(d) Has not had managed care enrollment ended by MAA, consistent with WAC 388-538-130.

(2) American Indian/Alaska Native (AI/AN) clients who meet the provisions of 25 U.S.C. 1603 (c)-(d) for federally-recognized tribal members and their descendants may choose one of the following:

(a) Enrollment with a managed care organization (MCO) available in their area;

(b) Enrollment with an Indian or tribal primary care case management (PCCM) provider available in their area; or

(c) MAA's fee-for-service system.

(3) A client may enroll with an MCO or PCCM provider by calling MAA's toll-free enrollment line or by sending a completed enrollment form to MAA.

(a) Except as provided in subsection (2) of this section for clients who are AI/AN ~~((and in subsection (5) of this section for cross-county enrollment)),~~ a client required to enroll in managed care must enroll with an MCO or PCCM provider available in the area where the client lives.

(b) All family members must either enroll with the same MCO or enroll with PCCM providers.

(c) Enrollees may request an MCO or PCCM provider change at any time.

(d) When a client requests enrollment with an MCO or PCCM provider, MAA enrolls a client effective the earliest possible date given the requirements of MAA's enrollment system. MAA does not enroll clients retrospectively.

(4) MAA assigns a client who does not choose an MCO or PCCM provider as follows:

(a) If the client has family members enrolled with an MCO, the client is enrolled with that MCO;

(b) If the client does not have family members enrolled with an MCO, and the client was enrolled in the last six months with an MCO or PCCM provider, the client is re-enrolled with the same MCO or PCCM provider;

(c) If a client does not choose an MCO or a PCCM provider, but indicates a preference for a provider to serve as the client's primary case provider (PCP), MAA attempts to contact the client to complete the required choice. If MAA is not able to contact the client in a timely manner, MAA documents the attempted contacts and, using the best information available, assigns the client as follows. If the client's preferred PCP is:

(i) Available with one MCO, MAA assigns the client in the MCO where the client's PCP provider is available. The MCO is responsible for PCP choice and assignment;

(ii) Available only as a PCCM provider, MAA assigns the client to the preferred provider as the client's PCCM provider;

(iii) Available with multiple MCOs or through an MCO and as a PCCM provider, MAA assigns the client to an MCO as described in (d) of this subsection;

(iv) Not available through any MCO or as a PCCM provider, MAA assigns the client to an MCO or PCCM provider as described in (d) of this subsection.

(d) If the client cannot be assigned according to (a), (b), or (c) of this subsection, MAA assigns the client as follows:

(i) If an AI/AN client does not choose an MCO or PCCM provider, MAA assigns the client to a tribal PCCM provider if that client lives in a zip code served by a tribal PCCM provider. If there is no tribal PCCM provider in the client's area, the client continues to be served by MAA's fee-for-service system. A client assigned under this subsection may request to end enrollment at any time.

(ii) If a non-AI/AN client does not choose an MCO or PCCM provider, MAA assigns the client to an MCO or

PCCM provider available in the area where the client lives. The MCO is responsible for PCP choice and assignment. An MCO must meet the healthy options (HO) contract's access standards unless the MCO has been granted an exemption by MAA. The HO contract standards are as follows:

(A) There must be two PCPs within ten miles for ninety percent of HO enrollees in urban areas and one PCP within twenty-five miles for ninety percent of HO enrollees in rural areas;

(B) There must be two obstetrical providers within ten miles for ninety percent of HO enrollees in urban areas and one obstetrical provider within twenty-five miles for ninety percent of HO enrollees in rural areas;

(C) There must be one hospital within twenty-five miles for ninety percent of HO enrollees in the contractor's service area;

(D) There must be one pharmacy within ten miles for ninety percent of HO enrollees in urban areas and one pharmacy within twenty-five miles for ninety percent of HO enrollees in rural areas.

(iii) MAA sends a written notice to each household of one or more clients who are assigned to an MCO or PCCM provider. The notice includes the name of the MCO or PCCM provider to which each client has been assigned, the effective date of enrollment, the date by which the client must respond in order to change MAA's assignment, and either the toll-free telephone number of:

(A) The MCO for enrollees assigned to an MCO; or

(B) MAA for enrollees assigned to a PCCM provider.

(iv) An assigned client has at least thirty calendar days to contact MAA to change the MCO or PCCM provider assignment before enrollment is effective.

(5) ~~((A client may enroll with a plan in an adjacent county when the client lives in an area, designated by MAA, where residents historically have traveled a relatively short distance across county lines to the nearest available practitioner.~~

~~(6))~~ An MCO enrollee's selection of the enrollee's PCP or the enrollee's assignment to a PCP occurs as follows:

(a) MCO enrollees may choose:

(i) A PCP or clinic that is in the enrollee's MCO and accepting new enrollees; or

(ii) Different PCPs or clinics participating with the same MCO for different family members.

(b) The MCO assigns a PCP or clinic that meets the access standards set forth in subsection (4)(d)(ii) of this section if the enrollee does not choose a PCP or clinic;

(c) MCO enrollees may change PCPs or clinics in an MCO ~~((at least once a year))~~ for any reason, ~~((and at any time for good cause))~~ with the change becoming effective no later than the beginning of the month following the enrollee's request; or

(d) In accordance with this subsection, MCO enrollees may file ~~((an appeal))~~ a grievance with the MCO ~~((and/or a fair hearing request with the department of social and health services (DSHS)))~~ and may change plans if the MCO denies an enrollee's request to change PCPs or clinics.

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

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-070 Managed care payment. (1) The medical assistance administration (MAA) pays managed care organizations (MCOs) monthly capitated premiums that:

(a) Have been determined using generally accepted actuarial methods based on analyses of historical healthy options (HO) contractual rates and MCO experience in providing health care for the populations eligible for HO; and

(b) Are paid based on legislative allocations for the HO program.

(2) MAA pays primary care case management (PCCM) providers a monthly case management fee according to contracted terms and conditions.

(3) MAA does not pay providers on a fee-for-service basis for services that are the MCO's responsibility under the HO contract, even if the MCO has not paid for the service for any reason. The MCO is solely responsible for payment of MCO-contracted health care services:

(a) Provided by an MCO-contracted provider; or

(b) That are authorized by the MCO and provided by nonparticipating providers.

(4) MAA pays an additional monthly amount, known as an enhancement rate, to federally qualified health care centers (FQHC) and rural health clinics (RHC) for each client enrolled with MCOs through the FQHC or RHC. MCOs may contract with FQHCs and RHCs to provide services under HO. FQHCs and RHCs receive an enhancement rate from MAA on a per member, per month basis in addition to the negotiated payments they receive from the MCOs for services provided to MCO enrollees.

~~((a) MAA pays the enhancement rate only for the categories of service provided by the FQHC or RHC under the HO contract [contract]. MAA surveys each FQHC or RHC in order to identify the categories of services provided by the FQHC or RHC.~~

~~(b) MAA bases the enhancement rate on both of the following:~~

~~(i) The upper payment limit (UPL) for the county in which the FQHC or RHC is located; and~~

~~(ii) An enhancement percentage.~~

~~(c) MAA determines the UPL for each category of service based on MAA's historical fee for service (FFS) experience, adjusted for inflation and utilization changes.~~

~~(d) MAA determines the enhancement percentage for HO enrollees as follows:~~

~~(i) For FQHCs, the enhancement percentage is equal to the FQHC finalized audit period ratio. The "finalized audit period" is the latest reporting period for which the FQHC has a completed audit approved by, and settled with, MAA.~~

~~(A) For a clinic with one finalized audit period, the ratio is equal to:~~

~~$$\frac{\text{FQHC total costs} - (\text{FFS reimbursements} + \text{HO reimbursements})}{(\text{FFS} + \text{HO reimbursements})}$$~~

~~(B) For a clinic with two finalized audit periods, the ratio is equal to the percentage change in the medical services encounter rate from one finalized audit period to the next. A "medical services encounter" is a face-to-face encounter between a physician or mid-level practitioner and a client to~~

~~provide services for prevention, diagnosis, and/or treatment of illness or injury. A "medical services encounter rate" is the individualized rate MAA pays each FQHC to provide such services to clients, or the rate set by Medicare for each RHC for such services.~~

~~(C) For FQHCs without a finalized audit, the enhancement percentage is the statewide weighted average of all the FQHCs' finalized audit period ratios. Weighting is based on the number of enrollees served by each FQHC.~~

~~(ii) For RHCs, MAA applies the same enhancement percentage statewide.~~

~~(A) On a given month, MAA determines the number of HO enrollees enrolled with each RHC that is located in the same county as an FQHC. This number is expressed as a percentage of the total number of RHC enrollees located in counties that have both FQHCs and RHCs.~~

~~(B) For each county that has both an FQHC and an RHC, MAA multiplies the FQHC enhancement percentage, as determined under subsection (4)(d)(i) of this section, by the percentage obtained in section (4)(d)(ii)(A) of this section.~~

~~(C) The sum of all these products is the weighted statewide RHC enhancement percentage.~~

~~(iii) The HO enhancement percentage for FQHCs and RHCs is updated once a year.~~

~~(e) For each category of service provided by the FQHC or RHC, MAA multiplies the UPL, as determined under subsection (4)(c) of this section, by the FQHC's or RHC's enhancement percentage. The sum of all these products is the enhancement rate for the individual FQHC or RHC.~~

~~(f) To calculate the enhancement rate for FQHCs and RHCs that provide maternity and newborn delivery services, MAA applies each FQHC's or RHC's enhancement percentage to the delivery case rate (DCR), which is a one-time rate paid by MAA to the HO plan for each pregnant enrollee who gives birth.)~~

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-095 Scope of care for managed care enrollees. (1) Managed care enrollees are eligible for the scope of medical care as described in WAC 388-529-0100 for categorically needy clients.

(a) A client is entitled to timely access to medically necessary services as defined in WAC 388-500-0005.

(b) The managed care organization (MCO) covers the services included in the healthy options (HO) contract for MCO enrollees. In addition, MCOs may, at their discretion, cover services not required under the HO contract.

(c) The medical assistance administration (MAA) covers the medically necessary, covered categorically needy services not included in the HO contract for MCO enrollees.

(d) MAA covers services on a fee-for-service basis for enrollees with a primary care case management (PCCM) provider. Except for emergencies, the PCCM provider must either provide the covered services needed by the enrollee or refer the enrollee to other providers who are contracted with MAA for covered services. The PCCM provider is responsible for instructing the enrollee regarding how to obtain the services that are referred by the PCCM provider. The services

PROPOSED

that require PCCM provider referral are described in the PCCM contract. MAA informs enrollees about the enrollee's program coverage, limitations to covered services, and how to obtain covered services.

(e) MCO enrollees may obtain certain services from either a MCO provider or from a medical assistance provider with a DSHS core provider agreement without needing to obtain a referral from the PCP or MCO. These services are described in the HO contract, and are communicated to enrollees by MAA and MCOs as described in (f) of this subsection.

(f) MAA sends each client written information about covered services when the client is required to enroll in managed care, and any time there is a change in covered services. This information describes covered services, which services are covered by MAA, and which services are covered by MCOs. In addition, MAA requires MCOs to provide new enrollees with written information about covered services.

(2) For services covered by MAA through PCCM contracts for managed care:

(a) MAA covers medically necessary (~~covers~~) services included in the categorically needy scope of care and rendered by providers with a current department of social and health services (DSHS) core provider agreement to provide the requested service;

(b) MAA may require the PCCM provider to obtain authorization from MAA for coverage of nonemergency services;

(c) The PCCM provider determines which services are medically necessary;

(d) An enrollee may request a fair hearing for review of PCCM provider or MAA coverage decisions (see WAC 388-538-110); and

(e) Services referred by the PCCM provider require an authorization number in order to receive payment from MAA.

(3) For services covered by MAA through contracts with MCOs:

(a) MAA requires the MCO to subcontract with a sufficient number of providers to deliver the scope of contracted services in a timely manner. Except for emergency services, MCOs provide covered services to enrollees through their participating providers;

(b) MAA requires MCOs to provide new enrollees with written information about how enrollees may obtain covered services;

(c) For nonemergency services, MCOs may require the enrollee to obtain a referral from the primary care provider (PCP), or the provider to obtain authorization from the MCO, according to the requirements of the HO contract;

(d) MCOs and their providers determine which services are medically necessary given the enrollee's condition, according to the requirements included in the HO contract;

(e) An enrollee may appeal an MCO (~~coverage decisions~~) action using the MCO's appeal process, as described in WAC 388-538-0110. After exhausting the MCO's appeal process, an enrollee may also request a department fair hearing for review of an MCO (~~coverage decision~~) action as described in (~~chapter 388-02~~)WAC 388-538-112;

(f) A managed care enrollee does not need a PCP referral to receive women's health care services, as described in RCW 48.42.100 from any women's health care provider participating with the MCO. Any covered services ordered and/or prescribed by the women's health care provider must meet the MCO's service authorization requirements for the specific service.

(4) Unless the MCO chooses to cover these services, or an appeal or a fair hearing decision reverses an MCO or MAA denial, the following services are not covered:

(a) For all managed care enrollees:

(i) Services that are not medically necessary;

(ii) Services not included in the categorically needy scope of services; and

(iii) Services, other than a screening exam as described in WAC 388-538-100(3), received in a hospital emergency department for nonemergency medical conditions.

(b) For MCO enrollees:

(i) Services received from a participating specialist that require prior authorization from the MCO, but were not authorized by the MCO; and

(ii) Services received from a nonparticipating provider that require prior authorization from the MCO that were not authorized by the MCO. All nonemergency services covered under the HO contract and received from nonparticipating providers require prior authorization from the MCO.

(c) For PCCM enrollees, services that require a referral from the PCCM provider as described in the PCCM contract, but were not referred by the PCCM provider.

(5) A provider may bill an enrollee for noncovered services as described in subsection (4) of this section, if the (~~enrollee and provider sign an agreement~~) requirements of WAC 388-502-0160 are met. The provider must give the original agreement to the enrollee and file a copy in the enrollee's record.

(a) The agreement must state all of the following:

(i) The specific service to be provided;

(ii) That the service is not covered by either MAA or the MCO;

(iii) An explanation of why the service is not covered by the MCO or MAA, such as:

(A) The service is not medically necessary; or

(B) The service is covered only when provided by a participating provider.

(iv) The enrollee chooses to receive and pay for the service; and

(v) Why the enrollee is choosing to pay for the service, such as:

(A) The enrollee understands that the service is available at no cost from a provider participating with the MCO, but the enrollee chooses to pay for the service from a provider not participating with the MCO;

(B) The MCO has not authorized emergency department services for nonemergency medical conditions and the enrollee chooses to pay for the emergency department's services rather than wait to receive services at no cost in a participating provider's office; or

(C) The MCO or PCCM has determined that the service is not medically necessary and the enrollee chooses to pay for the service.

(b) For limited English proficient enrollees, the agreement must be translated or interpreted into the enrollee's primary language to be valid and enforceable.

(c) The agreement is void and unenforceable, and the enrollee is under no obligation to pay the provider, if the service is covered by MAA or the MCO as described in subsection (1) of this section, even if the provider is not paid for the covered service because the provider did not satisfy the payor's billing requirements.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-538-080 Managed care exemptions.

WSR 03-14-065
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed June 25, 2003, 4:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-086.

Title of Rule: Part 2 of 3, chapter 388-538 WAC, Managed care; amending WAC 388-538-100 Managed care emergency services and 388-538-110 The grievance system for managed care organizations (MCOs); and new sections WAC 388-538-111 Primary care case management (PCCM) grievances and appeals and 388-538-112 The medical assistance administration's (MAA's) fair hearing process for enrollee appeals of managed care organization (MCO) actions.

Purpose: To bring the managed care program into compliance with the federal Balanced Budget Act (BBA) of 1997. The department is also updating and clarifying the criteria for exemptions and ending enrollment in managed care in order to provide a simpler, more flexible decision-making process while preserving clients' rights.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.522.

Statute Being Implemented: RCW 74.09.080, 74.09.510, 74.09.522, 74.09.450, 42 C.F.R. 438.400 through 420.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Ann Myers, P.O. Box 45533, Olympia, WA 98504, (360) 725-1345; Implementation and Enforcement: Michael Paulson, P.O. Box 45530, Olympia, WA 98504, (360) 725-1641.

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

Rule is necessary because of federal law, 42 C.F.R. 438.400 through 420.

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

The purpose is to meet federal requirements, update policies regarding exemption and ending enrollment and clarify existing policy.

The anticipated effect is compliance with federal requirements and easier to understand rules.

Proposal Changes the Following Existing Rules: The rules amend the process whereby clients may voice complaints and grievances and file appeals and fair hearing requests for managed care organization (MCO) actions to bring the process into compliance with the federal Balanced Budget Act. The rules also amend the criteria for exemption and ending enrollment in managed care, as well as the quality of care requirements for MCOs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules, and, to the best of the department's knowledge, the businesses affected by the rule employ more than fifty employees. The affected businesses therefore do not meet the definition of a small business in RCW 19.85.020, and a statement is not required.

RCW 34.05.328 applies to this rule adoption. The department has determined that while the proposed rule meets the definition of a "significant legislative rule," amended WAC 388-538-110, 388-538-111, and 388-538-112 are exempt under RCW 34.05.328 (5)(b)(iii) because the amendments to these sections are to comply with federal Balanced Budget Act requirements.

WAC 388-538-100 is amended to clarify policy and does not make significant changes to that policy. The department has analyzed the proposed amendments and concludes that the probable benefits are greater than the probable costs. A copy of the cost/benefit analysis memo is available from the department representative named above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by July 15, 2003, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensFH@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, delivered to 4500 10th Avenue S.E., Lacey, WA, mail to P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, or e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 5, 2003.

Date of Intended Adoption: Not sooner than August 6, 2003.

June 23, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

PROPOSED

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-100 Managed care emergency services. (1) A managed care enrollee may obtain emergency services, for emergency medical conditions in any hospital emergency department. ((These definitions differ from the emergency services definition that applies to services covered under the medical assistance administration's (MAA's) fee-for-service system)) ("emergency services" and "emergency medical condition" are as defined in this chapter).

(a) The managed care organization (MCO) covers emergency services for MCO enrollees.

(b) MAA covers emergency services for primary care case management (PCCM) enrollees.

(2) Emergency services for emergency medical conditions do not require prior authorization by the MCO, primary care provider (PCP), PCCM provider, or MAA.

(3) MCOs must cover all emergency services ((received by an MCO)) provided to an enrollee ((for nonemergency medical conditions must be authorized by the plan for enrollee's MCO)) by a provider who is qualified to furnish Medicaid services, without regard to whether the provider is a participating or nonparticipating provider.

(4) An enrollee who requests emergency services is entitled to receive an exam to determine if the enrollee has an emergency medical condition. What constitutes an emergency medical condition may not be limited on the basis of diagnosis or symptoms.

(5) The MCO must cover emergency services provided to an enrollee when:

(a) The enrollee had an emergency medical condition, including cases in which the absence of immediate medical attention would not have had the outcomes specified in the definition of an emergency medical condition; and

(b) The plan provider or other MCO representative instructs the enrollee to seek emergency services.

(6) In any disagreement between a hospital and the MCO about whether the enrollee is stable enough for discharge or transfer, or whether the medical benefits of an unstabilized transfer outweigh the risks, the judgment of the attending physician(s) actually caring for the enrollee at the treating facility prevails.

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-110 The grievance system for managed care ((complaints, appeals, and fair hearings)) organizations (MCO). (1) A managed care enrollee ((has the right to voice a complaint or submit an appeal of an MAA, MCO, PCCM, PCP or provider decision, action, or inaction. An enrollee may do this through the following process:

(a) For managed care organization (MCO) enrollees [enrollees], the MCO's complaint and appeal processes, and through the department's fair hearing process; or

(b) For primary care case management (PCCM) enrollees, the complaint and appeal processes of the medical assistance administration (MAA), and through the department's fair hearing process (chapter 388-02-WAC).

(2) To ensure the rights of MCO enrollees are protected, MAA approves each MCO's complaint and appeal policies and procedures annually or whenever the plan makes a change to the process.

(3) MAA requires MCOs to inform MCO enrollees in writing within fifteen days of enrollment about their rights and how to use the MCO's complaint and appeal processes. MAA requires MCOs to obtain MAA approval of all written information sent to enrollees.

(4) MAA provides PCCM enrollees with information equivalent to that described in subsection (3) of this section.

(5) MCO enrollees may request assistance from the MCO when using the MCO's complaint and appeals processes. PCCM enrollees may request assistance from MAA when using MAA's complaint and appeal process.

(6) An MCO enrollee who submits a complaint under this section is entitled to a written or verbal response from the MCO or from MAA within the timeline in the MAA-approved complaint process.

(7) When an enrollee is not satisfied with how the complaint is resolved by the MCO or by MAA, or if the complaint is not resolved in a timely fashion, the enrollee may submit an appeal to the MCO or to MAA. An enrollee may also appeal an MAA, MCO, primary care provider (PCP), or provider decision, or reconsideration of any action or inaction. An enrollee who appeals an MAA, MCO, PCP, or provider decision is entitled to all of the following:

(a) A review of the decision being appealed. The review must be conducted by an MCO or MAA representative who was not involved in the decision under appeal;

(b) Continuation of the service already being received and which is under appeal, until a final decision is made;

(c) A written decision from MAA or the MCO, within the timeline(s) in the appeal process standards, in the enrollee's primary language. The decision does not need to be translated if an enrollee with limited English proficiency prefers correspondence in English, and the deciding authority documents the enrollee's preference. The notice must clearly explain all of the following:

(i) The decision and any action MAA or the MCO intends to take;

(ii) The reason for the decision;

(iii) The specific information that supports MAA's or the MCO's decision; and

(iv) Any further appeal or fair hearing rights available to the enrollee, including the enrollee's right to continue receiving the service under appeal until a final decision is made.

(d) An expedited decision when it is necessary to meet an existing or anticipated acute or urgent medical need.

(8) An enrollee may file a fair hearing request without also filing an appeal with MAA or the MCO or exhausting MAA's or the MCO's appeal process.

(9) The MCO's medical director or designee reviews all fair hearings requests, and any related appeals, when the issues involve an MCO's determination of medical necessity.

(10) MAA's medical director or the medical director's designee reviews all fair hearings requests, and any related appeals, when the PCCM enrollee's issues involve an MAA determination of medical necessity)) may be enrolled in a managed care organization (MCO) or with a primary care

case management (PCCM) provider. This section contains information about the grievance system for MCO enrollees, which includes grievances and appeals as defined in WAC 388-538-050. See WAC 388-538-111 for information about the grievance system for PCCM enrollees, which includes grievances and appeals. See WAC 388-538-112 for the department's fair hearing process for appeals by MCO enrollees.

(2) An MCO enrollee may voice a grievance or appeal an action by an MCO either orally or in writing.

(3) If an MCO fails to meet the timeframes in this section concerning any appeal, the MCO must provide the services that are the subject of the appeal.

(4) MCOs must maintain records of grievances and appeals and must review the information as part of the MCO's quality strategy.

(5) MCOs must provide information describing the MCO's grievance system to all providers and subcontractors in any contract.

(6) Each MCO must have a grievance system in place for enrollees. The system must comply with the requirements of this section and the regulations of the state office of the insurance commissioner (OIC), insofar as OIC regulations are not in conflict with this chapter. Where such a conflict exists, the requirements of this chapter take precedence. The MCO grievance system must include all of the following:

(a) A grievance process for complaints about any matter other than an action, as defined in WAC 388-538-050. See subsection (7) of this section for this process;

(b) An appeal process for an action, as defined in WAC 388-538-050. See subsection (8) of this section for the standard appeal process and subsection (9) of this section for the expedited appeal process; and

(c) Access to the department's fair hearing process. The department's fair hearing process described in chapter 388-02 WAC applies to this chapter. Where conflicts exist, the requirements in this chapter take precedence. See WAC 388-538-112 for the department's fair hearing process for MCO enrollees.

(7) The MCO grievance process:

(a) Only an enrollee may file a grievance with an MCO; a provider may not file a grievance on behalf of an enrollee.

(b) To ensure the rights of MCO enrollees are protected, MAA approves each MCO's grievance process.

(c) MCOs must inform enrollees in writing within fifteen days of enrollment about enrollees' rights and how to use the MCO's grievance process, including how to use the department's fair hearing process. MAA must approve all written information the MCO sends to enrollees.

(d) The MCO must give enrollees any reasonable assistance in taking procedural steps for grievances (e.g., interpreter services and toll-free numbers).

(e) The MCO must acknowledge receipt of each grievance.

(f) The MCO must ensure that the individuals who make decisions on grievances are individuals who:

(i) Were not involved in any previous level of review or decision-making; and

(ii) If deciding any of the following, are health care professionals who have appropriate clinical expertise in treating the enrollee's condition or disease:

(A) A grievance regarding denial of an expedited resolution of an appeal; or

(B) A grievance involving clinical issues.

(g) The MCO must complete the disposition of a grievance and notice to the affected parties within ninety days of receiving the grievance.

(8) The MCO appeal process:

(a) An MCO enrollee, or a provider acting on behalf of the enrollee and with the enrollee's written consent, may appeal an MCO action. A provider may not request a department fair hearing on behalf of an enrollee.

(b) To ensure the rights of MCO enrollees are protected, MAA approves each MCO's appeal process.

(c) MCOs must inform enrollees in writing within fifteen days of enrollment about enrollees' rights and how to use the MCO's appeal process and the department's fair hearing process. MAA must approve all written information the MCO sends to enrollees.

(d) For standard service authorization decisions, an enrollee must file an appeal, either orally or in writing, within ninety calendar days of the date on the MCO's notice of action. This also applies to an enrollee's request for an expedited appeal.

(e) For appeals for termination, suspension, or reduction of previously authorized services, if the enrollee is requesting continuation of services, the enrollee must file an appeal within ten calendar days of the date of the MCO mailing the notice of action. Otherwise, the timeframes in subsection (8)(d) of this section apply.

(f) The MCO's notice of action must:

(i) Be in writing;

(ii) Be in the enrollee's primary language and be easily understood as required in 42 C.F.R. 438.10(c) and (d);

(iii) Explain the action the MCO or its contractor has taken or intends to take;

(iv) Explain the reasons for the action;

(v) Explain the enrollee's or the provider's right to file an MCO appeal;

(vi) Explain the procedures for exercising the enrollee's rights;

(vii) Explain the circumstances under which expedited resolution is available and how to request it (also see subsection (9) of this section);

(viii) Explain the enrollee's right to have benefits continue pending resolution of an appeal, how to request that benefits be continued, and the circumstances under which the enrollee may be required to pay the costs of these services (also see subsection (10) of this section); and

(ix) Be mailed as expeditiously as the enrollee's health condition requires, and as follows:

(A) For denial of payment, at the time of any action affecting the claim. This applies only when the client can be held liable for the costs associated with the action.

(B) For standard service authorization decisions that deny or limit services, not to exceed fourteen calendar days following receipt of the request for service, with a possible

extension of up to fourteen additional calendar days if the enrollee or provider requests extension.

(C) For termination, suspension, or reduction of previously authorized services, ten days prior to such termination, suspension, or reduction, except if the criteria stated in 42 C.F.R. 431.213 and 431.214 are met. The notice must be mailed by a method which certifies receipt and assures delivery within three calendar days.

(D) For expedited authorization decisions, in cases where the provider indicates or the MCO determines that following the standard timeframe could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, no later than three calendar days after receipt of the request for service.

(f) The MCO must give enrollees any reasonable assistance in taking procedural steps for an appeal (e.g., interpreter services and toll-free numbers).

(g) The MCO must acknowledge receipt of each appeal.

(h) The MCO must ensure that the individuals who make decisions on appeals are individuals who:

(i) Were not involved in any previous level of review or decision-making; and

(ii) If deciding any of the following, are health care professionals who have appropriate clinical expertise in treating the enrollee's condition or disease:

(A) An appeal of a denial that is based on lack of medical necessity; or

(B) An appeal that involves clinical issues.

(i) The process for appeals must:

(i) Provide that oral inquiries seeking to appeal an action are treated as appeals (to establish the earliest possible filing date for the appeal), and must be confirmed in writing, unless the enrollee or provider requests an expedited resolution. Also see subsection (9) for information on expedited resolutions;

(ii) Provide the enrollee a reasonable opportunity to present evidence, and allegations of fact or law, in person as well as in writing. The MCO must inform the enrollee of the limited time available for this in the case of expedited resolution;

(iii) Provide the enrollee and the enrollee's representative opportunity, before and during the appeals process, to examine the enrollee's case file, including medical records, and any other documents and records considered during the appeal process; and

(iv) Include as parties to the appeal, the enrollee and the enrollee's representative, or the legal representative of the deceased enrollee's estate.

(j) MCOs must resolve each appeal and provide notice, as expeditiously as the enrollee's health condition requires, within the following timeframes:

(i) For standard resolution of appeals, including independent review under RCW 48.43.535 and notice to the affected parties, no longer than forty-five calendar days from the day the MCO receives the appeal. This timeframe may not be extended.

(ii) For expedited resolution of appeals, including notice to the affected parties, no longer than three calendar days after the MCO receives the appeal.

(iii) For appeals for termination, suspension, or reduction of previously authorized services, no longer than forty-five calendar days from the day the MCO receives the appeal.

(k) The notice of the resolution of the appeal must:

(i) Be in writing. For notice of an expedited resolution, the MCO must also make reasonable efforts to provide oral notice (also see subsection (9) of this section).

(ii) Include the results of the resolution process and the date it was completed.

(iii) For appeals not resolved wholly in favor of the enrollee:

(A) Include information on the enrollee's right to request a department fair hearing and how to do so (also see WAC 388-538-112);

(B) Include information on the enrollee's right to receive services while the hearing is pending and how to make the request (also see subsection (10) of this section); and

(C) Inform the enrollee that the enrollee may be held liable for the cost of services received while the hearing is pending, if the hearing decision upholds the MCO's action (also see subsection (11) of this section).

(l) If an MCO enrollee does not agree with the MCO's resolution of the appeal, the enrollee may file a request for a department fair hearing within the following timeframes (see WAC 388-538-112 for the MAA fair hearing process for MCO enrollees):

(i) For appeals regarding a standard service, within twenty days of the date of the MCO's notice of the resolution of the appeal.

(ii) For appeals regarding termination, suspension, or reduction of a previously authorized service, within ten (10) days of the date on the MCO's notice of the resolution of the appeal.

(m) The MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to filing an appeal (a request for a department fair hearing) with MAA.

(9) The MCO expedited appeal process:

(a) Each MCO must establish and maintain an expedited appeal review process for appeals when the MCO determines (for a request from the enrollee) or the provider indicates (in making the request on the enrollee's behalf or supporting the enrollee's request), that taking the time for a standard resolution could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function.

(b) The MCO must make a decision on the enrollee's request for expedited appeal and provide notice, as expeditiously as the enrollee's health condition requires, within three calendar days after the MCO receives the appeal. The MCO must also make reasonable efforts to provide oral notice.

(c) The MCO must ensure that punitive action is neither taken against a provider who requests an expedited resolution or supports an enrollee's appeal.

(d) If the MCO denies a request for expedited resolution of an appeal, it must:

(i) Transfer the appeal to the timeframe for standard resolution; and

(ii) Make reasonable efforts to give the enrollee prompt oral notice of the denial, and follow up within two (2) calendar days with a written notice.

(10) Continuation of previously authorized services:

(a) The MCO must continue the enrollee's services if all of the following apply:

(i) The enrollee or the provider files the appeal on or before the later of the following:

(A) Unless the criteria in 42 C.F.R. 431.213 and 431.214 are met, within ten calendar days of the MCO mailing the notice of action, which for actions involving services previously authorized, must be delivered by a method which certifies receipt and assures delivery within three calendar days;
or

(B) The intended effective date of the MCO's proposed action.

(ii) The appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;

(iii) The services were ordered by an authorized provider;

(iv) The original period covered by the original authorization has not expired; and

(v) The enrollee requests an extension of services.

(b) If, at the enrollee's request, the MCO continues or reinstates the enrollee's services while the appeal is pending, the services must be continued until one of the following occurs:

(i) The enrollee withdraws the appeal;

(ii) Ten calendar days pass after the MCO mails the notice of the resolution of the appeal and the enrollee has not requested a department fair hearing (with continuation of services until the department fair hearing decision is reached) within the ten days;

(iii) The state Office of Administrative Hearings (OAH) issues a fair hearing decision adverse to the enrollee; or

(iv) The time period or service limits of a previously authorized service has been met.

(c) If the final resolution of the appeal upholds the MCO's action, the MCO may recover the amount paid for the services provided to the enrollee while the appeal was pending, to the extent that they were provided solely because of the requirement for continuation of services.

(11) Effect of reversed resolutions of appeals:

(a) If the MCO or OAH reverses a decision to deny, limit, or delay services that were not provided while the appeal was pending, the MCO must authorize or provide the disputed services promptly, and as expeditiously as the enrollee's health condition requires.

(b) If the MCO or OAH reverses a decision to deny authorization of services, and the enrollee received the disputed services while the appeal was pending, the MCO must pay for those services.

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

NEW SECTION

WAC 388-538-111 Primary care case management (PCCM) grievances and appeals. (1) A managed care

enrollee may be enrolled in a managed care organization (MCO) or with a primary care case management (PCCM) provider. This section contains information about the grievance system for PCCM enrollees, which includes grievances and appeals. See WAC 388-538-110 for information about the grievance system for MCO enrollees, which includes grievances and appeals. See WAC 388-538-112 for the fair hearing process for appeals by MCO enrollees.

(2) A PCCM enrollee may voice a grievance or appeal an MAA action, either orally or in writing. PCCM enrollees use the medical assistance administration's (MAA's) grievance and appeal processes.

(3) The grievance process for PCCM enrollees;

(a) A PCCM enrollee may file a grievance with MAA. A provider may not file a grievance on behalf of a PCCM enrollee.

(b) MAA provides PCCM enrollees with information equivalent to that described in WAC 388-538-110 (7)(c).

(c) When a PCCM enrollee files a grievance with MAA, the enrollee is entitled to:

(i) Any reasonable assistance in taking procedural steps for grievances (e.g., interpreter services and toll-free numbers);

(ii) Acknowledgment of MAA's receipt of the grievance;

(iii) A review of the grievance. The review must be conducted by an MAA representative who was not involved in the grievance issue; and

(iv) Disposition of a grievance and notice to the affected parties within ninety days of MAA receiving the grievance.

(4) The appeal process for PCCM enrollees:

(a) A PCCM enrollee may file an appeal of an MAA action with MAA. A provider may not file an appeal on behalf of a PCCM enrollee.

(b) MAA provides PCCM enrollees with information equivalent to that described in WAC 388-538-110 (8)(c).

(c) The appeal process for PCCM enrollees follows that described in chapter 388-02 WAC. Where a conflict exists, the requirements in this chapter take precedence.

NEW SECTION

WAC 388-538-112 The medical assistance administration's (MAA's) fair hearing process for enrollee appeals of managed care organization (MCO) actions. (1) The fair hearing process described in chapter 388-02 WAC applies to the fair hearing process described in this chapter. Where a conflict exists, the requirements in this chapter take precedence.

(2) An MCO enrollee must exhaust all levels of resolution and appeal within the MCO's grievance system prior to filing an appeal (a request for a department fair hearing) with MAA. See WAC 388-538-110 for the MCO grievance system.

(3) If an MCO enrollee does not agree with the MCO's resolution of the enrollee's appeal, the enrollee may file a request for a department fair hearing within the following time frames:

(a) For appeals regarding a standard service, within twenty days of the date of the MCO's notice of the resolution of the appeal.

(b) For appeals regarding termination, suspension, or reduction of a previously authorized service, if the enrollee is requesting continuation of services, within ten days of the date on the MCO's notice of the resolution of the appeal.

(4) The entire appeal process, including the MCO appeal process, must be completed within ninety calendar days of the date the MCO enrollee filed the appeal with the MCO, not including the number of days the enrollee took to subsequently file for a department fair hearing.

(5) Parties to the MAA fair hearing include the MCO, the enrollee, and the enrollee's representative or the representative of a deceased enrollee's estate.

WSR 03-14-066

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed June 25, 2003, 4:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-086.

Title of Rule: Part 3 of 3, chapter 388-538 WAC, Managed care; amending WAC 388-538-130 Exemptions and ending enrollment in managed care and 388-538-140 Quality of care.

Purpose: To bring the managed care program into compliance with the federal Balanced Budget Act (BBA) of 1997. The department is also updating and clarifying the criteria for exemptions and ending enrollment in managed care in order to provide a simpler, more flexible decision-making process while preserving clients' rights.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.522.

Statute Being Implemented: RCW 74.09.080, 74.09.510, 74.09.522, 74.09.450, 42 C.F.R. 438.400 through 420.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Ann Myers, P.O. Box 45533, Olympia, WA 98504, (360) 725-1345; Implementation and Enforcement: Michael Paulson, P.O. Box 45530, Olympia, WA 98504, (360) 725-1641.

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

Rule is necessary because of federal law, 42 C.F.R. 438.400 through 420.

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

The purpose is to meet federal requirements, update policies regarding exemption and ending enrollment and clarify existing policy.

The anticipated effect is compliance with federal requirements and easier to understand rules.

Proposal Changes the Following Existing Rules: The rules amend the process whereby clients may voice complaints and grievances and file appeals and fair hearing requests for managed care organization (MCO) actions to bring the process into compliance with the federal Balanced Budget Act. The rules also amend the criteria for exemption and ending enrollment in managed care, as well as the quality of care requirements for MCOs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules, and, to the best of the department's knowledge, the businesses affected by the rule employ more than fifty employees. The affected businesses therefore do not meet the definition of a small business in RCW 19.85.020, and a statement is not required.

RCW 34.05.328 applies to this rule adoption. WAC 388-538-130 and 388-538-140 are amended to clarify policy and do not make significant changes to that policy. The department has analyzed the proposed amendments and concludes that the probable benefits are greater than the probable costs. A copy of the cost/benefit analysis memo is available from the department representative named below.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by July 15, 2003, phone (360) 664-6097, TTY (360) 664-6178, e-mail swensFH@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, delivered to 4500 10th Avenue S.E., Lacey, WA, mail to P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, or e-mail fermaax@dshs.wa.gov, by 5:00 p.m., August 5, 2003.

Date of Intended Adoption: Not sooner than August 6, 2003.

June 23, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-130 Exemptions and ending enrollment in managed care.

(1) ~~((MAA ends an enrollee's enrollment in a managed care organization (MCO) or with a primary care case management (PCCM) provider when the enrollee meets any of the following conditions. The enrollee:~~

~~(a) Is no longer eligible for a medical program subject to enrollment; or~~

~~(b) Is receiving foster care placement services from the division of children and family services; or~~

~~(c) Is or becomes eligible for Medicare, basic health (BH), CHAMPUS/TRICARE, or any other accessible third party health care coverage that would require involuntary disenrollment from:~~

~~(i) An MCO in accordance with MAA's healthy options (HO) contract for MCO enrollees; or~~

~~(ii) A PCCM provider in accordance with MAA's PCCM contract for PCCM enrollees.~~

~~(2) An enrollee or the enrollee's representative as defined in RCW 7.70.065 may request MAA to end enrollment as described in subsections (3) through (10) of this section. A managed care organization (MCO) may request MAA to end enrollment for an enrollee as described in subsection (11) of this section. Only MAA has authority to remove an enrollee from managed care. Pending MAA's final decision, the enrollee remains enrolled unless staying in managed care would adversely affect the enrollee's health status.~~

~~(3) MAA grants an enrollee's request to have the enrollee's enrollment ended under the following conditions:~~

~~(a) Is American Indian or Alaska Native (AI/AN) and requests disenrollment; or~~

~~(b) Is identified by DSHS as a child who meets the definition of "children with special health care needs" and requests disenrollment.~~

~~(4) MAA grants an enrollee's requests to be removed from managed care when the client is pregnant or when there is a verified medical need to continue an established course of care. These end enrollments are limited to the following situations: The enrollee:~~

~~(a) Has a documented medical need to continue a client/provider relationship due to an established course of care with a physician, physician assistant, or advanced registered nurse practitioner. The standards for documenting a medical need are those in WAC 388-538-080 (3)(a). The established course of care must begin:~~

~~(i) While the enrollee was enrolled with managed care but the PCP is no longer available to the enrollee under managed care; or~~

~~(ii) Prior to enrollment in managed care and the PCP is not available under any MCO or as a PCCM provider.~~

~~(b) Is pregnant and requests to continue her course of prenatal care that was established with an obstetrical provider:~~

~~(i) While she was enrolled with the MCO but that provider is no longer available to her in managed care; or~~

~~(ii) Prior to enrollment with the current MCO but that provider is not available to her under managed care.~~

~~(c) Is scheduled for a surgery with a provider not available to the enrollee in the enrollee's current MCO and the surgery is scheduled to be performed within the first thirty days of enrollment[.]~~

~~(5) Except as provided in subsection (4) of this section, MAA does not permit an enrollee to obtain an end enrollment by establishing a course of care with a provider who is not participating with the enrollee's MCO.~~

~~(6) MAA ends enrollment on a case-by-case basis when the enrollee presents evidence that the managed care program does not provide medically necessary care that is reasonable available and accessible as offered to the enrollee. MAA considers enrollee requests under this subsection with the same criteria as listed in WAC 388-538-080 (3)(f).~~

~~(7) MAA ends enrollment temporarily if an enrollee asks to be taken out of the current MCO in order to stay with the enrollee's established provider, but is willing to enroll in the established provider's MCO for the next enrollment month. MAA reviews the enrollee request according to the criteria in~~

~~subsections (4) and (6) of this section. MAA's decision under this subsection include all of the following:~~

~~(a) The decision is given verbally and in writing;~~

~~(b) Verbal and written notices include the reason for the decision and information on hearings so the enrollee may appeal the decision;~~

~~(c) If the request to end enrollment is approved, it may be effective back to the beginning of the month the request is made; and~~

~~(d) If the request to end enrollment is denied, and the enrollee requests a hearing, the enrollee remains in the MCO or with the PCCM until the hearing decision is made as provided in subsection (2) of this section.~~

~~(8) MAA ends enrollment for the period of time the circumstances or conditions that led to ending the enrollment are expected to exist. If the request to end enrollment is approved for a limited time, the client is notified in writing or by telephone of the time limitation, the process for renewing the disenrollment, and their fair hearing rights.~~

~~(9) MAA does not approve an enrollee's request to end enrollment solely to pay for services received but not authorized by the MCO.~~

~~(10) The enrollee remains in managed care as provided in subsection (1) of this section and receives timely notice by telephone or in writing when MAA approves or denies the enrollee's request to end enrollment. Except as provided in subsection (7) of this section, MAA gives the reasons for a denial in writing. The written denial notice to the enrollee contains all of the following:~~

~~(a) The action MAA intends to take;~~

~~(b) The reason(s) for the intended action;~~

~~(c) The specific rule or regulation supporting the action;~~

~~(d) The enrollee's right to request a fair hearing; and~~

~~(e) A translation into the enrollee's primary language when the enrollee has limited English proficiency.~~

~~(11) MAA may end an enrollee's enrollment in a MCO or with a PCCM provider when the enrollee's MCO or PCCM provider substantiates in writing, to MAA's satisfaction, that:~~

~~(a) The enrollee's behavior is inconsistent with the MCO or PCCM provider rules and regulations, such as intentional misconduct; and~~

~~(b) After the MCO or PCCM provider has provided:~~

~~(i) Clinically appropriate evaluation(s) to determine whether there is a treatable problem contributing to the enrollee's behavior; and~~

~~(ii) If so, has provided clinically appropriate referral(s) and treatment(s), but the enrollee's behavior continues to prevent the provider from safely or prudently providing medical care to the enrollee; and~~

~~(c) The enrollee received written notice from the MCO or PCCM provider of the MCO or PCCM provider intent to request the enrollee's removal, unless MAA has waived the requirement for the MCO or PCCM provider notice because the enrollee's conduct presents the threat of imminent harm to others. The MCO or PCCM provider notice to the enrollee must include both of the following:~~

~~(i) The enrollee's right to use the appeal process as described in WAC 388-538-110 to review the MCO or PCCM provider request to end the enrollee's enrollment; and~~

(ii) The enrollee's right to use the department fair hearing process.

(12) MAA makes a decision to remove an enrollee from enrollment in managed care within thirty days of receiving the MCO or PCCM provider request to do so. Before making a decision, MAA attempts to contact the enrollee and learn the enrollee's perspective. If MAA approves the MCO or PCCM provider request to remove the enrollee, MAA sends a notice at least ten days in advance of the effective date that enrollment will end. The notice includes the reason for MAA's approval to end enrollment and information about the enrollee's fair hearing rights.

(13) MAA does not approve a request to remove an enrollee from managed care when the request is solely due to an adverse change in the enrollee's health or the cost of meeting the enrollee's needs.) The medical assistance administration (MAA) may exempt a client from mandatory enrollment in managed care or may end an enrollee's enrollment in managed care as specified in this section, on a case-by-case basis. Only MAA has authority to exempt a client from enrollment in, or remove an enrollee from, managed care.

(2) A client or enrollee, or the client's or enrollee's representative as defined in RCW 7.70.065, may request MAA to exempt or end enrollment in managed care as described in this section.

(a) If a client requests exemption prior to the enrollment effective date, the client is not enrolled until MAA approves or denies the request and any related fair hearing is held and decided.

(b) If an enrollee requests to end enrollment, the enrollee remains enrolled pending MAA's final decision, unless staying in managed care would adversely affect the enrollee's health status.

(c) The client or enrollee receives timely notice by telephone or in writing when MAA approves or denies the client's or enrollee's request. MAA follows a telephone denial by written notification. The written notice contains all of the following:

(i) The action MAA intends to take;

(ii) The reason(s) for the intended action;

(iii) The specific rule or regulation supporting the action;

(iv) The client's or enrollee's right to request a fair hearing; and

(v) A translation into the client's or enrollee's primary language when the client or enrollee has limited English proficiency.

(3) A managed care organization (MCO) or primary care case management (PCCM) provider may request MAA to end enrollment. The request must be in writing and be sufficient to satisfy MAA that the enrollee's behavior is inconsistent with the MCO's or PCCM provider's rules and regulations (e.g., intentional misconduct). MAA does not approve a request to remove an enrollee from managed care when the request is solely due to an adverse change in the enrollee's health or the cost of meeting the enrollee's health care needs. The MCO or PCCM provider's request must include documentation that:

(a) The provider furnished clinically appropriate evaluation(s) to determine whether there is a treatable problem contributing to the enrollee's behavior;

(b) Such evaluation either finds no treatable condition to be contributing, or after evaluation and treatment, the enrollee's behavior continues to prevent the provider from safely or prudently providing medical care to the enrollee; and

(c) The enrollee received written notice of the provider's intent to request the enrollee's removal, unless MAA has waived the requirement for provider notice because the enrollee's conduct presents the threat of imminent harm to others. The provider's notice must include:

(i) The enrollee's right to use the provider's grievance system as described in WAC 388-538-110 and 388-538-111; and

(ii) The enrollee's right to use the department's fair hearing process, after the enrollee has exhausted all grievance and appeals available through the provider's grievance system (see WAC 388-538-110 and 388-538-111 for provider grievance systems, and WAC 388-538-112 for the fair hearing process for enrollees).

(4) When MAA receives a request from an MCO or PCCM provider to remove an enrollee from enrollment in managed care, MAA attempts to contact the enrollee for the enrollee's perspective. If MAA approves the request, MAA sends a notice at least ten days in advance of the effective date that enrollment will end. The notice includes:

(a) The reason MAA approved ending enrollment; and

(b) Information about the enrollee's fair hearing rights.

(5) MAA will exempt a client from mandatory enrollment or end an enrollee's enrollment in managed care when any of the following apply:

(a) The client or enrollee is receiving foster care placement services from the division of children and family services (DCFS);

(b) The client has or the enrollee becomes eligible for Medicare, basic health (BH), CHAMPUS/TRICARE, or any other accessible third-party health care coverage that would require exemption or involuntary disenrollment from:

(i) An MCO, in accordance with MAA's healthy options (HO) contract; or

(ii) A primary care case management (PCCM) provider, in accordance with MAA's PCCM contract.

(6) MAA will grant a client's request for exemption or an enrollee's request to end enrollment when:

(a) The client or enrollee is American Indian/Alaska Native (AI/AN) as specified in WAC 388-538-060(2);

(b) The client or enrollee has been identified by MAA as a child who meets the definition of "children with special health care needs";

(c) The client or enrollee is homeless or is expected to live in temporary housing for less than one hundred twenty days from the date of the request; or

(d) The client or enrollee speaks limited English or is hearing impaired and the client or enrollee can communicate with a provider who communicates in the client's or enrollee's language or in American Sign Language and is not available through the MCO and the MCO does not have a provider available who can communicate in the client's language.

(7) On a case-by-case basis, MAA may grant a client's request for exemption or an enrollee's request to end enrollment when, in MAA's judgment, the client or enrollee has a

documented and verifiable medical condition, and enrollment in managed care could cause an interruption of treatment that could jeopardize the client's or enrollee's life or health or ability to attain, maintain, or regain maximum function.

(8) Upon request, MAA may exempt the client or end enrollment for the period of time the circumstances or conditions that lead to exemption or ending enrollment are expected to exist. MAA may periodically review those circumstances or conditions to determine if they continue to exist. If MAA approves the request for a limited time, the client or enrollee is notified in writing or by telephone of the time limitation, the process for renewing the exemption or the ending of enrollment, and fair hearing rights.

(9) An MCO may refer enrollees to MAA's patients requiring regulation (PRR) program in accordance with WAC 388-501-0135.

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-140 Quality of care. (1) In order to assure that managed care enrollees receive ~~((appropriate access to))~~ quality health care ~~((and))~~ services, the medical assistance administration (MAA) ~~((does all of the following))~~ requires managed care organizations (MCOs) to comply with quality improvement standards as stated in the medical assistance administration (MAA) managed care contract as follows:

~~(a) ((Requires managed care organizations (MCOs) to have a fully operational quality assurance system that meets a comprehensive set of quality improvement program (QIP) standards.~~

~~(b) Monitors MCO performance through on-site visits and other audits, and requires corrective action for deficiencies that are found.~~

~~(c) Requires MCOs to report annually on standardized clinical performance measures that are specified in the contract with MAA, and requires corrective action for substandard performance.~~

~~(d) Contracts with a professional review organization to conduct independent external review studies of selected health care and service delivery.~~

~~(e) Conducts enrollee satisfaction surveys.~~

~~(f) Annually publishes individual MCO performance information and primary care case management (PCCM) program performance information including certain clinical measures and enrollee satisfaction surveys and makes reports of site monitoring visits available upon request.~~

(2) MAA requires MCOs and PCCM providers to have a method to assure consideration of the unique needs of enrollees with chronic conditions. The method includes:

(a) Early identification;

(b) Timely access to health care; and

(c) Coordination of health service delivery and community linkages)) Have a clearly defined quality organizational structure and operation, including a fully operational quality assessment, measurement, and improvement program;

(b) Have effective means to detect both underutilization and overutilization of services;

(c) Maintain a grievance system that includes a process for enrollees to file grievances and appeals according to the requirements of WAC 388-538-110;

(d) Maintain a system for provider and practitioner credentialing and recredentialing;

(e) Ensure that MCO subcontracts and the delegation of MCO responsibilities are in accordance with MAA standards and regulations;

(f) Cooperate with an MAA-contracted qualified independent external review organization (EQRO) conducting review activities as described in 42 C.F.R. 438.358;

(g) Have an effective means to assess the quality and appropriateness of care furnished to enrollees with special health care needs;

(h) Submit annual reports to MAA, including HEDIS performance measures, specified by MAA;

(i) Maintain a health information system that:

(i) Collects, analyzes, integrates, and reports data as requested by MAA;

(ii) Provides information on utilization, grievances and appeals, enrollees ending enrollment for reasons other than the loss of Medicaid eligibility, and other areas as defined by MAA;

(iii) Collects data on enrollees, providers, and services provided to enrollees through an encounter data system, in a standardized format as specified by MAA; and

(iv) Ensures data received from providers is adequate and complete by verifying the accuracy and timeliness of reported data and screening the data for completeness, logic, and consistency.

(j) Conduct performance improvement projects designed to achieve significant improvement, sustained over time, in clinical care outcomes and services, and that involve the following:

(i) Measuring performance using objective quality indicators;

(ii) Implementing system changes to achieve improvement in service quality;

(iii) Evaluating the effectiveness of system changes;

(iv) Planning and initiating activities for increasing or sustaining performance improvement;

(v) Reporting each project status and the results as requested by MAA; and

(vi) Completing each performance improvement project timely so as to generally allow aggregate information to produce new quality of care information every year.

(k) Ensure enrollee access to health care services;

(l) Ensure continuity and coordination of enrollee care; and

(m) Ensure the protection of enrollee rights and the confidentiality of enrollee health information.

(2) MAA may impose intermediate sanctions in accordance with 42 C.F.R. 438.700 and corrective action for substandard rates of clinical performance measures and for deficiencies found in audits and on-site visits.

PROPOSED

WSR 03-14-067
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed June 25, 2003, 4:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-10-086.

Title of Rule: Amending WAC 388-538-067 Managed care provided through managed care organizations (MCOs).

Purpose: Amending the rule to provide the potential for broader provider participation in managed care.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.522.

Statute Being Implemented: RCW 74.09.080, 74.09-510, 74.09.522, 74.09.450, 42 C.F.R. 438.400 through 420.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Ann Myers, P.O. Box 45533, Olympia, WA 98504, (360) 725-1345; Implementation and Enforcement: Michael Paulson, P.O. Box 45530, Olympia, WA 98504, (360) 725-1641.

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

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

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

The purpose is to broaden the potential for greater provider participation in managed care.

The anticipated effect is increased provider participation in managed care, resulting in better access for medical assistance clients.

Proposal Changes the Following Existing Rules: The rules amend the criteria for contracting with the department to provide managed care services to eligible clients.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules, and, to the best of the department's knowledge, the businesses affected by the rule employ more than fifty employees. The affected businesses therefore do not meet the definition of a small business in RCW 19.85.020, and a statement is not required.

RCW 34.05.328 does not apply to this rule adoption. WAC 388-538-067 is amended to clarify policy and does not make significant changes to that policy. The department has analyzed the proposed amendments and concludes that the probable benefits are greater than the probable costs. A copy of the cost/benefit analysis memo is available from the department representative named below.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by July 29, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, delivered to 4500 10th Avenue S.E., Lacey, WA, mail to P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, or e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 5, 2003.

Date of Intended Adoption: Not sooner than August 6, 2003.

June 25, 2003

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-01-075, filed 12/14/01, effective 1/14/02)

WAC 388-538-067 Managed care provided through managed care organizations (MCOs). (1) Managed care organizations (MCOs) may contract with the department of social and health services (DSHS) to provide prepaid health care services to eligible medical assistance administration (MAA) clients (~~(under the healthy options (HO) managed care program)~~). The MCOs must meet the qualifications in this section to be eligible to contract with DSHS. The MCO must:

(a) Have a certificate of registration from the office of the insurance commissioner (OIC) (~~(as either a health maintenance organization (HMO) or a health care services contractor (HCSC))~~) that allows the MCO to provide the services in subsection (1) of this section;

(b) Accept the terms and conditions of DSHS' HO contract;

(c) Be able to meet the network and quality standards established by DSHS; and

(d) Accept the prepaid rates published by DSHS.

(2) DSHS reserves the right not to contract with any otherwise qualified MCO.

WSR 03-14-074
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 27, 2003, 9:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 00-10-045 on April 26, 2000.

Title of Rule: Chapter 296-843 WAC, Hazardous waste operations; and chapter 296-62 WAC, General occupational health standards.

Purpose: The hazardous waste operations rule is being rewritten and reorganized for clarity and ease of use for employers and employees. We are also revising two provisions of the rule as a result of a "not-at-least-as-effective-as" (NALAEA) OSHA determination. A note will be added to chapter 296-62 WAC, Part P, Hazardous Waste Operations and Treatment, Storage, and Disposal Facilities stating the requirements will only apply to agriculture.

AMENDED SECTIONS:

WAC 296-62-300 Hazardous waste operations and treatment, storage, and disposal facilities.

- This section is being amended to note that the provisions of WAC 296-62-300 through 296-62-3195 will apply only to agriculture after the effective date of chapter 296-843 WAC, Hazardous Waste Operations.

NEW SECTIONS:

WAC 296-843-100 Scope.

- Moved requirements relating to the rule scope from chapter 296-62 WAC, Part P and added post-emergency response for clarity.

WAC 296-843-110 Evaluations and inspections.

- Moved requirements relating to evaluations and inspections from chapter 296-62 WAC, Part P.

WAC 296-843-11005 Complete a preliminary site evaluation before allowing employees to enter the site.

- Moved requirements relating to preliminary site evaluation from chapter 296-62 WAC, Part P.

WAC 296-843-11010 Conduct ongoing evaluations of safety and health hazards.

- Moved requirements relating to the conduct of ongoing site evaluations from chapter 296-62 WAC, Part P.

WAC 296-843-120 Health and safety plan (HASP).

- Moved requirements relating to the health and safety plan from chapter 296-62 WAC, Part P.

WAC 296-843-12005 Develop and maintain a written site-specific health and safety plan (HASP).

- Moved requirements relating to the development and maintenance of a site-specific health and safety plan from chapter 296-62 WAC, Part P.

WAC 296-843-130 Sampling and monitoring.

- Moved requirements relating to sampling and monitoring from chapter 296-62 WAC, Part P.

WAC 296-843-13005 Conduct monitoring for health and safety hazards during initial site entry.

- Moved requirements relating to the monitoring for health and safety hazards during initial site entry from chapter 296-62 WAC, Part P.

WAC 296-843-13010 Evaluate employee exposure to hazardous substances during clean-up operations.

- Moved requirements relating to the evaluation of employee exposure to hazardous substances during clean-up operations from chapter 296-62 WAC, Part P.

WAC 296-843-140 Site control.

- Moved requirements relating to site control from chapter 296-62 WAC, Part P.

WAC 296-843-14005 Establish site control.

- Moved requirements relating to the establishment of site control from chapter 296-62 WAC, Part P.

WAC 296-843-150 Worker and equipment decontamination.

- Moved requirements relating to worker and equipment decontamination from chapter 296-62 WAC, Part P.

WAC 296-843-15005 Establish and implement decontamination procedures before any worker or equipment enters a contaminated area.

- Moved requirements relating to the establishment and implementation of decontamination procedures before workers or equipment enter contaminated areas from chapter 296-62 WAC, Part P.

WAC 296-843-15010 Provide showers and changing rooms.

- Moved requirements relating to requirements for showers and changing rooms from chapter 296-62 WAC, Part P.

WAC 296-843-15015 Provide washing facilities.

- Moved requirements relating to the requirements for washing facilities from chapter 296-62 WAC, Part P.

WAC 296-843-160 Emergency response for hazardous waste sites.

- Moved requirements relating to emergency response for hazardous waste sites from chapter 296-62 WAC, Part P.

WAC 296-843-16005 Establish an emergency response plan for anticipated emergencies before beginning hazardous waste operations.

- Moved requirements relating to the establishment of an emergency response plan for anticipated emergencies before beginning hazardous waste operations from chapter 296-62 WAC, Part P.

WAC 296-843-17005 Control employee exposure to site health and safety hazards.

- Moved requirements relating to the control of employee exposure to health and safety hazards from chapter 296-62 WAC, Part P.

WAC 296-843-180 Drum and container handling.

- Moved requirements relating to drum and container handling from chapter 296-62 WAC, Part P.

WAC 296-843-18005 Handle drums and containers safely.

- Moved requirements relating to the safe handling of drums and containers from chapter 296-62 WAC, Part P.

WAC 296-843-18010 Handle drums and containers suspected of containing shock-sensitive (explosive) wastes safely.

- Moved requirements relating to the handling of drums and containers suspected of containing shock-sensitive (explosive) wastes safely from chapter 296-62 WAC, Part P.

WAC 296-843-18015 Maintain worker safety in drum and container opening areas.

- Moved requirements relating to safety in drum and container opening areas from chapter 296-62 WAC, Part P.

WAC 296-843-18020 Ship and transport drums and containers safely.

- Moved requirements relating to the safe shipment and transport of drums and containers from chapter 296-62 WAC, Part P.

WAC 296-843-190 Personal protective equipment (PPE).

- Moved requirements relating to personal protective equipment from chapter 296-62 WAC, Part P.

WAC 296-843-19005 Provide and use appropriate PPE.

- Moved requirements relating to requirements to provide and use appropriate PPE from chapter 296-62 WAC, Part P.

WAC 296-843-200 Training, briefings, and information.

- Moved requirements relating to training, briefings and information requirements from chapter 296-62 WAC, Part P.

WAC 296-843-20005 Inform workers, contractors and subcontractors about the hazardous waste site.

- Moved requirements relating to the need to inform workers, contractors and subcontractors about hazardous waste sites from chapter 296-62 WAC, Part P.

WAC 296-843-20010 Train workers, supervisors and managers before work begins on the site.

- Moved requirements relating to need to train workers, supervisors and managers before work begins on the site from chapter 296-62 WAC, Part P.

WAC 296-843-20015 Provide training to your managers and supervisors.

- Moved requirements relating to the requirement to provide training for managers and supervisors from chapter 296-62 WAC, Part P.

WAC 296-843-20020 Training for post-emergency response.

- Incorporated training for post-emergency response from WISHA Regional Directive (WRD) 32.99, Inspection guidelines for post-emergency response.

WAC 296-843-20025 Make sure your employees receive written documentation of training.

- Moved requirements relating to making sure employees receive written documentation of training from chapter 296-62 WAC, Part P.

WAC 296-843-20030 Provide refresher training to employees.

- Moved requirements relating refresher training requirements from chapter 296-62 WAC, Part P.

WAC 296-843-20035 Use qualified trainers.

- Moved requirements relating to the qualifications of trainers from chapter 296-62 WAC, Part P.

WAC 296-843-210 Medical surveillance.

- Moved requirements relating to medical surveillance from chapter 296-62 WAC, Part P.

WAC 296-843-21005 Provide medical surveillance for your employees.

- Moved requirements relating to the requirement to provide medical surveillance for employees from chapter 296-62 WAC, Part P.

WAC 296-843-220 Record keeping and information access.

- Moved requirements relating to the keeping and allowing of access to records from chapter 296-62 WAC, Part P.

WAC 296-843-22005 Make your records accessible.

- Moved requirements relating to the records accessibility from chapter 296-62 WAC, Part P.

WAC 296-843-22010 Keep medical surveillance records for your employees.

- Moved requirements relating to the requirement to keep medical surveillance records for your employees from chapter 296-62 WAC, Part P.

WAC 296-843-300 Definitions.

- Moved requirements relating to the rule from chapter 296-62 WAC, Part P.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

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

Proposal Changes the Following Existing Rules: The hazardous waste operations and TSD facilities rule, in chapter 296-62 WAC, is being rewritten, reorganized, renamed, and renumbered as chapter 296-843 WAC, Hazardous waste operations, for clarity and ease of use for employers and employees. We are also revising two provisions of the rule as a result of a "not-at-least-as-effective-as" (NALAEA) OSHA determination. A note will be added to chapter 296-62 WAC, Part P, Hazardous Waste Operations and Treatment, Storage, and Disposal Facilities stating the requirements will only apply to agriculture.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department considered whether these proposed rules are subject to the Regulatory Fairness Act and determined that they do not require a small business economic impact statement because the proposed changes are exempt by law (see RCW 19.85.025 referencing RCW 34.05.310(4)) from the small business economic impact requirement.

RCW 34.05.328 applies to this rule adoption. This rule is a significant legislative rule, however it is exempt under RCW 34.05.328 (5)(b) since it only corrects typographical errors and clarifies language without changing its effect. The proposal does not increase requirements.

Hearing Location: Department of Labor and Industries Building, Rooms S117 and S118, 7273 Linderson Way S.W., Tumwater, WA, on August 26, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Sally Elliott by August 20, 2003, at (360) 902-5484.

Submit Written Comments to: Jim Hughes, Project Manager, WISHA Services Division, P.O. Box 44620, Olympia WA 98507-4620, fax (360) 902-5529, e-mail hugw235@lni.wa.gov, by 5:00 p.m., August 29, 2003.

Date of Intended Adoption: October 1, 2003.

June 27, 2003

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 99-07-097, filed 3/23/99, effective 6/23/99)

WAC 296-62-300 Hazardous waste operations and treatment, storage, and disposal facilities.

Note: The requirements in WAC 296-62-300 through 296-62-3195 apply only to agriculture. The requirements for all other industries relating to hazardous waste have been moved to chapter 296-843 WAC, Hazardous waste operations.

Chapter 296-843 WAC

HAZARDOUS WASTE OPERATIONS

NEW SECTION

WAC 296-843-100 Scope. This chapter applies if you have any of the following:

- Employees working in operations involving hazardous waste at a treatment, storage, and disposal (TSD) facility required to have a permit or interim status AND regulated by any of the following:

- 40 CFR Parts 264 and 265 under the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901 et seq.;

- Agencies implementing RCRA through agreements with the United States Environmental Protection Agency (U.S.E.P.A.);

- Chapter 173-303 WAC, Dangerous waste regulations;

OR

- Employees conducting initial investigations of government-identified sites before determining whether hazardous substances are present;

OR

- Employees working at a hazardous waste site to make the site safer for people or the environment. Sites include, but are not limited to:

- The Environmental Protection Agency's (EPA) National Priority Site List (NPL); see <http://www.epa.gov/superfund/sites/npl/wa.htm>;

- Sites recommended for inclusion on the EPA NPL;

- State priority site lists, for example those listed under chapter 173-340 WAC, Model Toxics Control Act (MTCA); see <http://www.ecy.wa.gov/programs/tcp/cscs/CSC-Spage.HTM>;

- Unlisted sites recognized by a federal, state or local government as an uncontrolled hazardous waste site. Examples of such sites include:

- Those that do not meet clean-up goals established by the MTCA and that pose a threat or potential threat to human health or the environment;

- Clandestine drug lab sites designated for cleanup;

- Sites covered by the Resource Conservation and Recovery Act of 1976 (RCRA) as amended (42 U.S.C. 6901 et seq.) or chapter 70.105 RCW, Hazardous waste management;

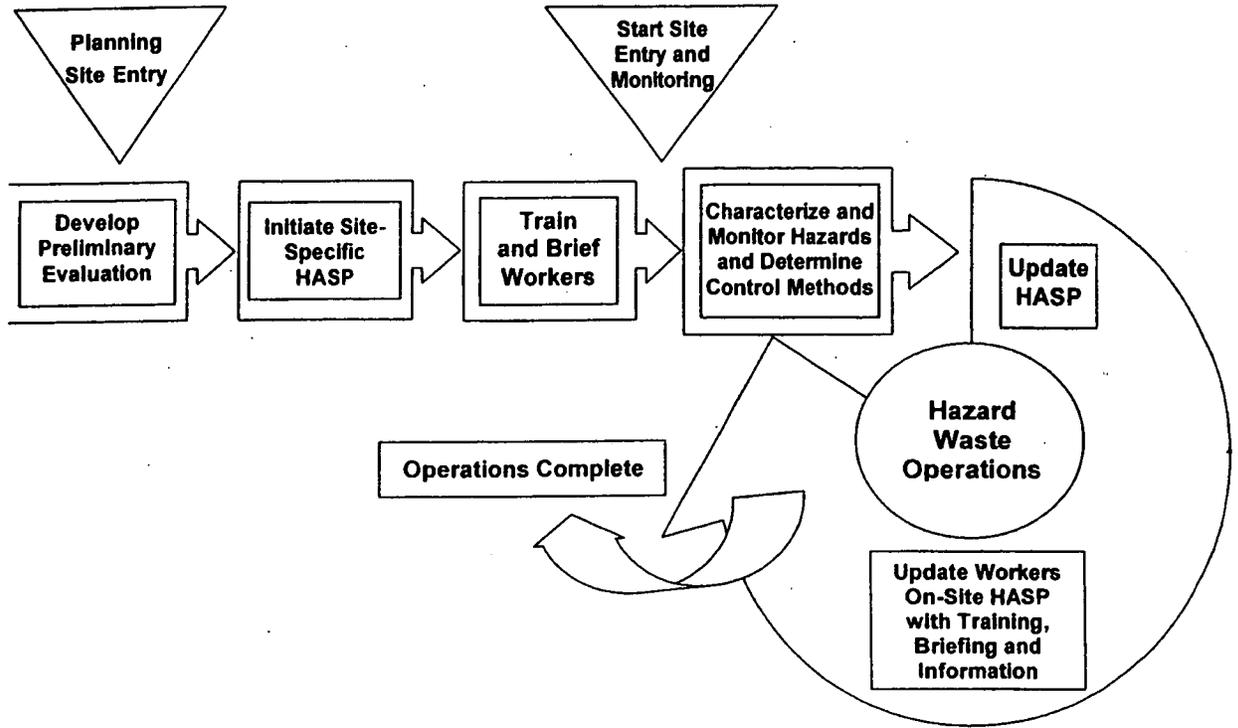
- Postemergency response cleanup at the site of a hazardous substance release regulated by chapter 296-824 WAC, Emergency response.

IMPORTANT:

This chapter applies to hazardous waste sites until cleanup at the site is determined to be complete by the governing regulatory agency.

PROPOSED

Site Evaluation Health & Safety Plan (HASP) Development Cycle



IMPORTANT: This diagram is to illustrate the general flow of the site. Please see the body of the regulation for details.

Illustration 1

Other rules that may apply to hazardous waste operations:

You will find safety and health requirements (for example, personal protective equipment) are addressed in other rules and also in this chapter. If you find a conflict in requirements, you need to meet the more protective requirement. Contact your local L&I office if you need assistance in making this determination.

Examples of other rules that may apply:

- Chapter 296-800 WAC, Safety and health core rules:
 - WAC 296-800-140, Accident prevention program;
 - WAC 296-800-210, Lighting;
 - WAC 296-800-230, Drinking water, bathrooms, washing facilities and waste disposal.

- Chapter 296-24 WAC, Safety standards for general safety.
- Chapter 296-833 WAC, Temporary housing for workers.
- Chapter 296-62 WAC, General occupational health.
- Chapter 296-155 WAC, Safety standards for construction work.
- Chapter 296-824 WAC, Emergency response.
- Chapter 296-841 WAC, Respiratory hazards.
- Chapter 296-842 WAC, Respirators.

PROPOSED

NEW SECTION

WAC 296-843-110 Evaluations and inspections.

Your responsibility:

To conduct evaluations before entering the site and periodically throughout the hazardous waste operations.

You must:

Complete a preliminary site evaluation before allowing employees to enter the site

WAC 296-843-11005.

Conduct ongoing evaluations of safety and health hazards

WAC 296-843-11010.

NEW SECTION

WAC 296-843-11005 Complete a preliminary site evaluation before allowing employees to enter the site.

You must:

• Complete a preliminary site evaluation by doing all the following:

<p>Collect or develop the following information to the extent available:</p>	<ul style="list-style-type: none"> • The site location and approximate size • A description of the response activity and the job tasks to be performed • The time needed to cover all planned activities • The site's topography and all ways to access the site • The current status and capabilities of any emergency response team assisting during an emergency • The safety and health hazards expected at the site • The hazardous substances and health hazards at the site, including their chemical and physical properties • All hazardous substance dispersion pathways • An emergency response plan
<p>Have a qualified person evaluate the preliminary site information to identify:</p>	<ul style="list-style-type: none"> • Potential site hazards and risks • The most appropriate methods to protect employees • Conditions that have the potential to cause death or serious harm, including potential inhalation or skin absorption hazards that are immediately dangerous to life or health (IDLH) <ul style="list-style-type: none"> - Examples include: <ul style="list-style-type: none"> ■ Confined space entry ■ Potentially explosive or flammable environments ■ Visible vapor clouds ■ Areas where plants or animals have died

	<ul style="list-style-type: none"> • Risks related to specific on-site hazardous substances and health hazards <ul style="list-style-type: none"> - Examples include: <ul style="list-style-type: none"> ■ Exposures exceeding the permissible exposure limits (PELs) or published exposure levels ■ IDLH concentrations ■ Potential skin absorption and irritation sources ■ Potential eye irritation sources ■ Explosion sensitivity and flammability ranges ■ Oxygen deficient atmospheres
<p>Have a qualified person prepare an initial site characterization and analysis for the site to:</p>	<ul style="list-style-type: none"> • Identify known and suspected health and safety hazards for the site • Aid in selecting control methods to protect employees from site hazards • Brief employees on site conditions before any work starts • Initiate the site-specific health and safety plan (HASP)

Note: Characterization and analysis of site hazards is an ongoing process for work on the hazardous waste site.

NEW SECTION

WAC 296-843-11010 Conduct ongoing evaluations of safety and health hazards.

You must:

(1) Have a qualified person complete further evaluation of health and safety hazards at the site immediately after initial entry to:

- Identify site hazards in more detail.
- Help select appropriate:
 - Control methods to protect employees from site hazards.
 - Personal protective equipment (PPE) for site operations.

Note: For more information, see WAC 296-843-170, Hazard controls, and WAC 296-843-190, Personal protective equipment.

You must:

(2) Make sure your site safety and health supervisor or another qualified person performs periodic inspections to:

- Determine if the site-specific HASP is effective.
- Correct any deficiencies.

NEW SECTION

WAC 296-843-120 Health and safety plan (HASP).

Your responsibility:

To establish a written health and safety plan (HASP).

You must:

Develop and maintain a written site-specific health and safety plan (HASP)

WAC 296-843-12005.

PROPOSED

NEW SECTION**WAC 296-843-12005 Develop and maintain a written site-specific health and safety plan (HASP).**

Reference: If your overall program required under WAC 296-800-140, Accident prevention program (APP), meets requirements of this chapter, you do not need to duplicate those portions of your APP in the site-specific health and safety plan (HASP).

You must:

• Develop a written HASP for each hazardous waste site, **BEFORE** beginning hazardous waste operations, that includes at least the following:

Hazard analysis:

– Identification and evaluation of on-site safety and health hazards.
– A safety and health risk (hazard) analysis for each site task and operation that is identified in the comprehensive work plan.

Organization chart:

– An organizational structure that reflects current site operations, including the following:

- Establish and identify the chain of command.
- Identify the site safety and health supervisor and other personnel responsible for employee safety and health.
- Specify the overall responsibilities of supervisors and employees.
- Include the name and title of the person with responsibility and authority to direct all hazardous waste operations.
- Include a site safety and health supervisor responsible for developing and implementing the HASP and verifying compliance.
- Identify the functions and responsibilities of all personnel needed for hazardous waste operations and emergency response.
- Identify site specific lines of authority, responsibility, and communication.

Comprehensive work plan:

– A written comprehensive work plan of tasks, objectives, logistics, and resources for site operations, including the following:

- Addresses anticipated clean-up activities and normal operating procedures unless that information is already available in another document.
- Defines work tasks and objectives.
- Describes how the work tasks and objectives will be accomplished.
- Establishes the personnel requirements to implement the work plan.
- Provides for implementation of training, briefings, and information as required by WAC 296-843-200.

Site control plan:

– An up-to-date site control plan before clean-up operations begin to minimize employee exposure to hazardous substances and including the following (unless it's available in another document):

- A site map.
- Establish site work zones.
- How the "buddy system" is used.

■ The site communications plan, including how employees are alerted during emergencies.

■ The site's standard operating procedures (SOPs) or safe work practices.

■ Identification of the nearest medical assistance.

Personal protective equipment:

– A PPE plan that addresses all of the following:

- Site hazards and activities.
- Methods to evaluate the effectiveness of the PPE plan.
- Criteria for selecting and fitting PPE, including work duration, use limitations of particular PPE, and medical considerations such as temperature extremes and heat stress.
- Training on PPE use.
- Procedures for putting on and taking off PPE.
- PPE inspection procedures prior to, during, and after use.
- Decontamination and disposal of PPE.
- Maintenance and storage of PPE.

Additional elements:

- A sampling and monitoring plan (see WAC 296-843-130 that includes sampling of drums and containers).
- Site control measures (see WAC 296-843-140).
- Decontamination procedures (see WAC 296-843-150).
- Spill containment plans (see WAC 296-843-180, Drum and container handling).
- Standard operating procedures for sampling, managing, and handling drums and containers (see WAC 296-843-180).
- Entry procedures for tanks or vaults (see WAC 296-62-141, Confined spaces).
- A training, briefings, and information plan (see WAC 296-843-200).
- A medical surveillance plan (see WAC 296-843-210), that includes site-specific medical surveillance requirements.
- Sanitation (see WAC 296-155-140).
- Lighting (see WAC 296-800-210).
- Excavations (see chapter 296-155 WAC, Part N, Excavation, trenching and shoring).
- Any relationship or interaction between other programs and the site-specific program.

Note: The emergency response plan required by WAC 296-843-160, Emergency response for hazardous waste sites, is also included as a separate section in the HASP.

You must:

- Keep a copy of your HASP on site.

Reference: For more information, see WAC 296-843-220, Recordkeeping and information access.

NEW SECTION**WAC 296-843-130 Sampling and monitoring.****Your responsibility:**

To conduct monitoring for health and safety hazards to protect employees.

You must:

Conduct monitoring for health and safety hazards during initial site entry

WAC 296-843-13005.

Evaluate employee exposure to hazardous substances during clean-up operations
WAC 296-843-13010.

NEW SECTION

WAC 296-843-13005 Conduct monitoring for health and safety hazards during initial site entry.

You must:

- Make visual observations of the site to detect signs of actual or potential immediately dangerous to life or health (IDLH) or other dangerous conditions.
- Conduct representative air monitoring with direct reading test equipment, when the preliminary site evaluation does not eliminate the potential for ionizing radiation or IDLH conditions.
- Assess the following:
 - Potential IDLH conditions.
 - Exposure over radioactive material dose limits.
 - Potential exposure over permissible exposure limits (PELs) or other published exposure levels.
 - Other dangerous conditions, such as the presence of flammable or oxygen-deficient atmospheres.

Reference: See WAC 296-62-09004, Ionizing radiation, for additional information about radioactive material dose limits.

NEW SECTION

WAC 296-843-13010 Evaluate employee exposure to hazardous substances during clean-up operations.

IMPORTANT:

The clean-up operation begins when soil, surface water, or containers are moved or disturbed.

You must:

- Identify the type of personnel monitoring and environmental sampling you plan to use, including instrumentation.
- Include requirements for maintaining and calibrating the monitoring and sampling instruments used.
- Monitor whenever employees may be exposed to concentrations exceeding PELs or other published exposure levels.
- Evaluate employees who are likely to have the highest exposure:
 - Monitor all employees who are likely to have the highest exposure to hazardous substances or health hazards above the PEL or published exposure limit.
 - Use personal sampling frequently enough to characterize the exposures of these employees.
 - When results indicate exposure is over the PEL or other published exposure level, identify all employees likely to be above the PEL or published exposure limit.

Note: You may use a representative sampling approach by documenting that the employees and chemicals chosen for monitoring are representative of both:

- Employee exposure to hazardous substances;
- AND
- Employees not sampled.

You must:

- Conduct monitoring when the possibility of one of the following exists:
 - An atmosphere that is immediately dangerous to life or health (IDLH);
 - OR
 - A flammable atmosphere;
 - OR
 - Employee exposures exceeding PELs or other published exposure levels.
- Examples of situations where these possibilities may exist:
- Work begins on a different portion of the site.
 - Contaminants other than those previously monitored are being handled.
 - A different type of site operation starts, such as moving from drum opening to exploratory well drilling.
 - Handling leaking drums or containers.
 - Working in areas with obvious liquid contamination such as a spill or lagoon.
 - Time has passed and employee exposure levels may have significantly increased.

NEW SECTION

WAC 296-843-140 Site control.

Your responsibility:

To establish a plan to control access to the site.

You must:

Establish a site control plan
WAC 296-843-14005.

NEW SECTION

WAC 296-843-14005 Establish site control.

You must:

- Maintain site work zones and site control as required by Table 1, Site Work Zone Requirements.
- Control access to the exclusion and contamination reduction zones.
- Make sure people wear personal protective equipment (PPE) appropriate to their work zone.

Table 1

Site Work Zone Requirements

For this type of work zone:	You must:
Exclusion zone	<ul style="list-style-type: none"> • Establish entry and exit checkpoints on the zone's boundary • Regulate the flow of people and equipment into and out of the zone • Make sure exits go through a contamination reduction corridor

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For this type of work zone:	You must:
Contamination reduction zone with a contamination reduction corridor	<ul style="list-style-type: none"> • Enter through a control point from the clean zone • Provide a transition or buffer between the exclusion zone and the clean zone • Perform all decontamination procedures • Establish separate decontamination routes for people and equipment, if practical • Remove all PPE worn in the contamination reduction or exclusion zones before entering the clean zone
Clean zone or support zone	Have no exposure to hazardous substances or health hazards

Note: See Illustration 2 for an example of site work zones.

PROPOSED

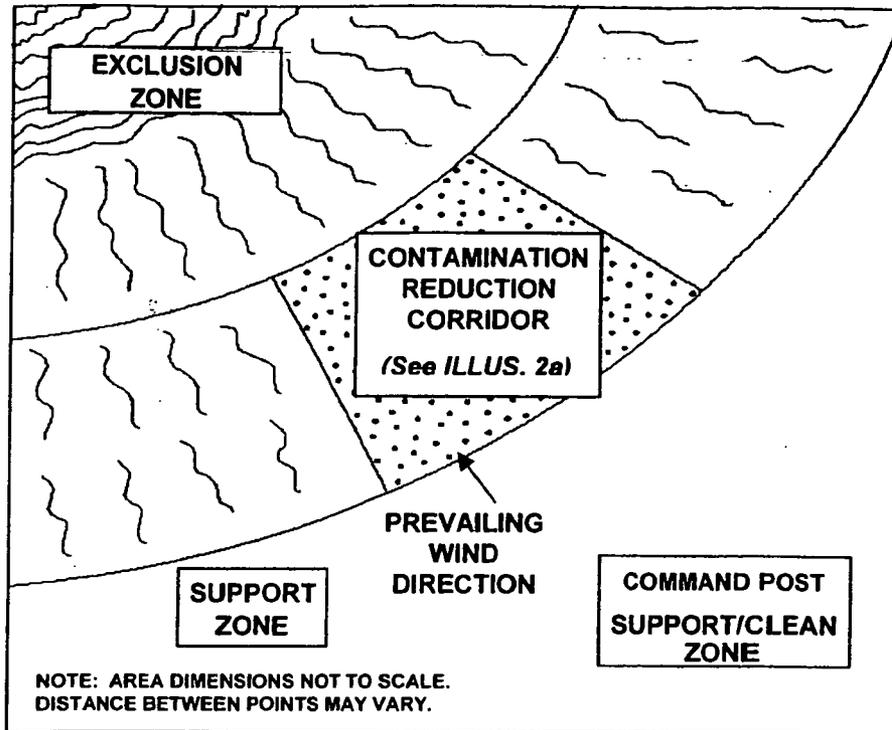


Illustration 2 – SITE WORK ZONES

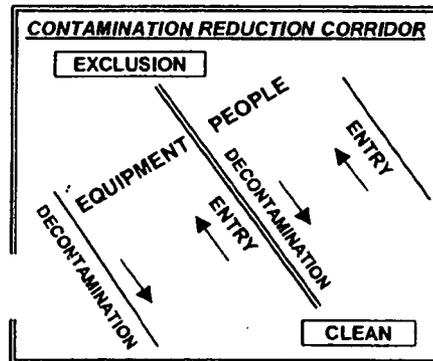


Illustration 2a – CONTAMINATION REDUCTION CORRIDOR

NEW SECTION

WAC 296-843-150 Worker and equipment decontamination.

Your responsibility:

To make sure the necessary facilities and equipment for effective decontamination are available and used.

You must:

Establish and implement decontamination procedures before any worker or equipment enters a contaminated area
WAC 296-843-15005.

Provide showers and changing rooms
 WAC 296-843-15010.
 Provide washing facilities
 WAC 296-843-15015.

- Inform commercial laundries or cleaning establishments about the potentially harmful effects from exposure to hazardous substances.
- Properly decontaminate or dispose of decontamination equipment and solvents.

PROPOSED

NEW SECTION

WAC 296-843-15005 Establish and implement decontamination procedures before any worker or equipment enters a contaminated area.

You must:

- Establish, implement, and communicate decontamination procedures to all workers, to include the following:
 - Standard operating procedures to minimize worker contact with:
 - Hazardous substances.
 - Contaminated equipment.
 - Decontaminating all:
 - Workers leaving a contaminated area.
 - Equipment leaving a contaminated area.
 - Decontaminating, cleaning, laundering, repairing, or replacing protective clothing or equipment (PPE) as needed to maintain effectiveness.
 - Immediate removal of clothing, such as cotton coveralls, wet with hazardous substances and use the nearest shower.
 - Decontaminate or dispose of clothing before removal from the work zone.
 - Have your procedures periodically monitored for effectiveness by the site safety and health supervisor.
 - Correct your procedures when found ineffective.
 - Establish decontamination areas to minimize contact of contaminated employees and equipment with uncontaminated employees or equipment.
 - Make sure only authorized employees remove protective clothing or equipment from changing rooms.

NEW SECTION

WAC 296-843-15010 Provide showers and changing rooms.

You must:

- Provide changing areas and showers outside a contaminated area, when needed for worker decontamination, that include at least the following:
 - Separate changing areas:
 - One to provide a clean area where employees can remove, store, and put on street clothing with an exit leading off the work site.
 - Another where employees can put on, remove, store, and dispose of work clothing and PPE with an exit leading to the work site.
 - A shower area separating the changing areas.
 - Prevent clean areas from being contaminated by hazardous substances.
 - Provide and use other effective means for cleansing, if temperature conditions prevent the effective use of water.
 - Locate showers and change rooms where worker exposures are below permissible exposure limits (PELs) or other published exposure levels.
 - If this cannot be accomplished, use a ventilation system to supply air that is below the PELs or published exposure.
 - Make sure all workers shower at the end of their work shift or before they leave the site, when needed for worker decontamination.
- Illustration 3 is a sample diagram of a change room layout.

Change Room Layout

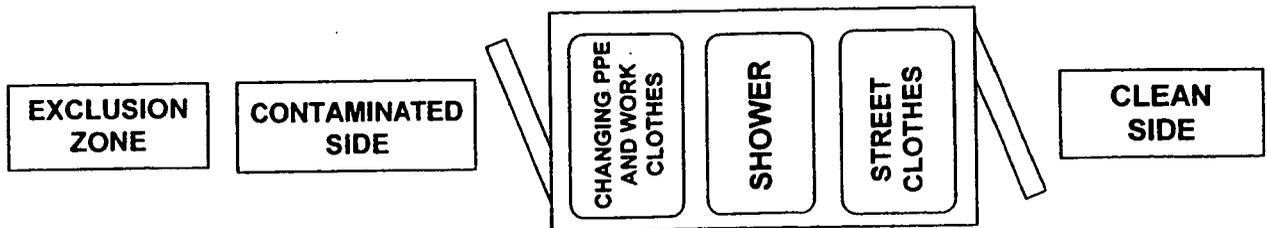


Illustration 3

NEW SECTION**WAC 296-843-15015 Provide washing facilities.****You must:**

- Provide adequate washing facilities to employees working in hazardous waste operations that are:
 - Close and convenient to the work area.
 - Located in areas where employee exposure is below PELs or other published exposure levels.
 - Equipped so an employee can remove hazardous substances from themselves without assistance.

NEW SECTION**WAC 296-843-160 Emergency response for hazardous waste sites.****Your responsibility:**

To establish an emergency response plan for emergencies at the hazardous waste site.

You must:

Establish an emergency response plan for anticipated emergencies before beginning hazardous waste operations
WAC 296-843-16005.

NEW SECTION**WAC 296-843-16005 Establish an emergency response plan for anticipated emergencies before beginning hazardous waste operations.**

Exemption: Employers are exempt from preparing an emergency response plan if they do ALL of the following:

- Evacuate all employees from the danger area during an emergency.
- Prohibit employees from assisting in the emergency response.
- Prepare an emergency action plan that complies with WAC 296-24-567(1), Evacuation plan.

IMPORTANT:

Treatment, storage, and disposal (TSD) employers are not required to duplicate subjects fully addressed in the contingency plan required by permits when the contingency plan is part of their emergency response plan. Examples of permits would be those issued by the department of ecology.

You must:

(1) Establish and maintain the plan to reflect current site conditions, information, and personnel:

- Include policies or procedures for at least the following:
 - Preemergency planning.
 - Coordination with outside organizations.
 - Current site topography, layout, and weather conditions.
 - Personnel roles.
 - Lines of authority.
 - Communication.
 - Reporting incidents to local, state, and federal government agencies.
 - Emergency recognition and prevention.
 - Safe distances and places of refuge.
 - Site security and control.
 - Evacuation routes.

- Decontamination not covered by the site-specific HASP.

- Emergency medical treatment and first aid.
- Emergency alert and response.
- Personal protective equipment and emergency equipment.
- Employee training.
- Critique of the response effort and appropriate followup.
 - Use available information at the time of the emergency to:

- Evaluate the incident and site response capabilities.
- Proceed with appropriate steps to implement your emergency response plan.

- The emergency response plan must be:

- Kept as a separate section of your site-specific health and safety plan (HASP);

AND

- Integrated and compatible with, local, state, and federal plans for disasters, fires, and emergency responses.

(2) Establish an alarm system to alert employees to all of the following:

- An on-site emergency incident:

- To stop work activities, if necessary.
- To lower background noise to assist communication.
- To begin emergency procedures.

(3) Rehearse the plan as part of site operations training.

NEW SECTION**WAC 296-843-170 Employee exposure controls.****Your responsibility:**

Implement feasible controls to protect employees from exposure to site hazards.

You must:

Control employee exposure to site health and safety hazards

WAC 296-843-17005.

Establish procedures for using and evaluating new technology

WAC 296-843-17010.

NEW SECTION**WAC 296-843-17005 Control employee exposure to site health and safety hazards.****You must:**

- Use feasible controls, selected based on monitoring and other available information, to protect employee exposure above permissible exposure limits (PELs) or other published exposure levels.

- Examples of controls include:

- Installing pressurized cabs or control booths on equipment.
- Using remotely operated material handling equipment.
- Removing all nonessential employees when opening drums.
- Wetting down dusty operations.

- Positioning employees upwind of possible hazards.
- Evaluate new technologies and other control measures before using them on a large scale.

• Use any reasonable combination of controls and personal protective equipment (PPE) to reduce and maintain employee exposure at or below the PELs, published exposure levels, or dose levels when controls are not either:

– Feasible;

OR

– Effective.

• Make sure PPE does NOT replace controls.

– PPE should be used only as a supplement to controls.

Note: For those hazardous substances without PELs or published exposure levels, use other published literature and material safety data sheets (MSDSs) to help decide what level of protection is appropriate. For more information about MSDSs, see WAC 296-800-180 in the *Safety and Health Core Rules* book.

You must:

- Use employee rotation to reduce exposure below ionizing radiation PELs or dose limits, when that is the **only** feasible means of protecting employees.

NEW SECTION

WAC 296-843-180 Drum and container handling.

Your responsibility:

To handle drums and containers in ways that minimize the hazard to employees.

You must:

Handle drums and containers safely

WAC 296-843-18005.

Handle drums and containers suspected of containing shock-sensitive (explosive) wastes safely

WAC 296-843-18010.

Maintain worker safety in drum and container opening areas

WAC 296-843-18015.

Ship and transport drums and containers safely

WAC 296-843-18020.

IMPORTANT:

• Containers or drums containing shock-sensitive (explosive) or potentially shock-sensitive wastes require special handling precautions.

• Handle, transport, label, and dispose of drums and containers according to this chapter and other United States Department of Transportation (DOT), WISHA, EPA, and Washington department of ecology regulations for:

– Drums.

– Containers.

– Hazardous substances.

– Contaminated soils.

– Liquids, and other residues.

NEW SECTION

WAC 296-843-18005 Handle drums and containers safely.

Preparation for moving drums and containers:

You must:

• Assess hazards to employees, such as radioactive waste, before handling drums and containers.

• Consider unlabeled drums and containers to contain hazardous substances and handle them accordingly, until the contents are positively identified, labeled, and assessed for hazards.

• Inspect and make sure drums and containers are sound before moving them.

– If it is not practical to inspect drums without moving them, move drums and containers to an accessible location and inspect prior to further handling.

• Remove soil or other materials covering drums or containers with caution to prevent rupture.

• Use ground-penetrating systems or other types of detection systems or devices to estimate the location and depth of buried drums or containers.

• Use the sampling plan and procedures included in the site-specific HASP to sample the contents of containers and drums.

Moving drums and containers:

You must:

• Warn all employees exposed to drum movement operations about the potential hazards associated with the contents of the drums or containers prior to moving them.

• Minimize movement of drums or containers.

• Select, position, and operate tools and material handling equipment to prevent the ignition of flammable vapors.

• Handle tanks and vaults containing hazardous substances with the same precautions as for drums and containers, taking into account the size of tank or vault.

Handling spills and leaks:

You must:

• Contain and isolate the entire volume of a hazardous substance in a drum or container when a spill occurs.

• Have available and use both of the following in areas where spills, leaks, or ruptures may occur:

– United States Department of Transportation (DOT) specified salvage drums or containers.

– Suitable quantities of proper absorbent materials.

• Empty drums and containers, that cannot be moved without rupturing, leaking, or spilling, into a sound container.

– Use a pump or other device classified for the material being transferred.

• Have fire-extinguishing equipment on-hand to control fires in their initial stage.

Reference: For further information, see the safety and health core rules, WAC 296-800-300, Portable fire extinguishers.

NEW SECTION

WAC 296-843-18010 Handle drums and containers suspected of containing shock-sensitive (explosive) wastes safely.

You must:

• Allow only essential employees in the transfer area.

• Communicate as follows:

– Signal the beginning and end of shock-sensitive (explosive) waste handling activities with an alarm system

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that is capable of being perceived above background light and noise.

- Maintain continuous communications throughout the handling operation:

- Between the employee-in-charge of the immediate handling area AND the site safety and health supervisor AND the command post.

- Using portable radios, hand signals, or telephones, as appropriate.

- Prevent the use of communication equipment or methods that could cause shock-sensitive (explosive) materials to explode.

- Provide material handling equipment with explosive containment devices or shields to protect equipment operators from exploding containers.

- Do not move bulging or swollen drums or containers until the cause for excess pressure is determined and you can move the drum or container safely.

- Consider packaged laboratory wastes or laboratory waste packs shock-sensitive or explosive until the contents have been characterized.

- Make sure laboratory waste packs are opened only:

- When necessary.

- By a person knowledgeable in the inspection, classification, and segregation of the containers within the pack.

NEW SECTION

WAC 296-843-18015 Maintain worker safety in drum and container opening areas.

You must:

- Keep employees who are not involved in opening drums or containers a safe distance from the opening area.

- Use appropriate shielding between the employee and the drums or containers, when excess interior pressure cannot be relieved from a remote location.

- Provide an explosion-resistant barrier that does not interfere with the work to protect employees working near or adjacent to drum or container opening operations from accidental explosions.

- Position controls for drum or container opening equipment, monitoring equipment, and fire suppression equipment behind the explosion-resistant barrier. Prohibit employees from standing on or working from drums or containers.

Reference: The shipment of shock-sensitive (explosive) waste may be prohibited under United States Department of Transportation (DOT) regulations. You and your shipper should refer to title 49 CFR.

NEW SECTION

WAC 296-843-18020 Ship and transport drums and containers safely.

You must:

(1) Identify and classify drum and container contents prior to packaging for shipment.

(2) Provide staging areas:

- Each staging area must have adequate entry and exit routes.

- The number of drum or container staging areas must be kept to the minimum needed to identify and classify materials safely and prepare them for transport.

(3) Permit bulking of hazardous wastes only after a thorough characterization of the wastes has been completed.

Note: Handle, transport, label, and dispose of drums and containers according to this chapter and other United States Department of Transportation (DOT), WISHA, EPA, and Washington department of ecology regulations for:

- Drums.
- Containers.
- Hazardous substances.
- Contaminated soils.

NEW SECTION

WAC 296-843-190 Personal protective equipment (PPE).

Your responsibility:

To use PPE to protect employees when feasible controls do not remove the hazardous exposure.

You must:

Provide and use appropriate PPE during the initial entry WAC 296-843-19005.

Reference: For additional information about developing a PPE plan, see the PPE user guide found at <http://www.lni.wa.gov/wisha/publications/PPEGuide/PPEload.htm>.

Note: The manufacturer's information on PPE may be used to meet your PPE plan requirements. For example, the manufacturer's procedures for putting on and taking off PPE may be attached to the site-specific health and safety plan (HASP).

NEW SECTION

WAC 296-843-19005 Provide and use appropriate PPE.

Reference: See WAC 296-843-110, Evaluations and inspections, found in this chapter, for more information about how to identify hazards and complete your preliminary site evaluation.

You must:

(1) Make sure the PPE you provide and use for initial entry protects employees from known or suspected safety and health hazards identified during the preliminary site evaluation as follows:

If	Then
The need for atmosphere supplying respirators and chemical protective clothing has NOT been eliminated	Provide atmosphere supplying respirators and protective clothing
Employees use respiratory protection other than a positive-pressure SCBA for initial entry	Include an escape self-contained breathing apparatus (SCBA) with enough air to reach a safe location and always at least five minutes of air

- Use Table 2, Selecting PPE in Various Exposure Situations, to determine the level of PPE to provide during initial entry:

You must:

(2) Make sure the PPE you select provides employee protection based on:

- Actual and potential hazards identified during the site characterization and analysis (see WAC 296-843-110, Evaluations and inspections).
- Hazards likely to be encountered.
- Required tasks and their duration.
- Site requirements and limitations.
- Use Table 2 to identify the type of PPE that is required for various exposure situations.

Table 2
Selecting PPE in Various Exposure Situations

If	Then
Changing site conditions indicate a change in employee exposure	Review and adjust the level of protection as appropriate Note: You may decrease the level of protection when information indicates this will not increase employee exposure to safety or health hazards
There is a substantial possibility that skin absorption or contact with a hazardous substance may: • Impair an employee's ability to escape • Cause immediate serious illness or injury • Is an IDLH or immediate death hazard	Use totally encapsulating chemical protective (TECP) suits and make sure they will protect employees from the hazards • Use, decontaminate, inspect, and remove TECP suits from service according to the manufacturer's recommendations • Perform any TECP integrity tests recommended by the manufacturer and make sure all TECP suits are capable of: – Maintaining positive air pressure – Preventing inward test gas leakage of more than 0.5%

If	Then
	Note: Follow the manufacturer's recommended procedures for testing a TECP suit's ability to maintain positive air pressure and prevent inward gas leakage. Other established test protocols for these suits, for example, NFPA 1991 and ASTM F1052-97, may also be used
There is a substantial possibility that employee exposure to hazardous substances will either: • Immediately cause death, serious illness, or serious injury OR • Impair an employee's ability to escape	Use a positive-pressure SCBA or an airline respirator with an escape SCBA • Protect air supply from contamination and the entire respirator system from physical damage

Note: If there is not a permissible exposure limit (PEL) or other published exposure level for a hazardous substance, you may use published studies and information as a guide for selecting appropriate PPE.

NEW SECTION

WAC 296-843-200 Training, briefings, and information.

Your responsibility:

To make sure employees and subcontractors have the training and information needed to work safely.

You must:

Inform workers and employers about the hazardous waste site

WAC 296-843-20005.

Train workers, supervisors and managers before work begins on the site

WAC 296-843-20010.

Provide additional training to your managers and supervisors

WAC 296-843-20015.

Training for postemergency response

WAC 296-843-20020.

Make sure your employees receive written documentation of training

WAC 296-843-20025.

Provide refresher training to employees

WAC 296-843-20030.

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Use qualified trainers
WAC 296-843-20035.

IMPORTANT:

If law enforcement personnel participate in clean-up activities, they must receive appropriate hazardous waste clean-up training as described in this chapter.

NEW SECTION

WAC 296-843-20005 Inform workers, contractors and subcontractors about the hazardous waste site.

You must:

- Inform employees, contractors, and subcontractors or their representatives, about:
 - The nature, level, and degree of exposure to hazardous substances they're likely to encounter.
 - All site-related emergency response procedures.
 - Any identified potential fire, explosion, health, safety, or other hazards.
- Conduct briefings for employees, contractors, and subcontractors, or their representatives as follows:
 - A preentry briefing before any site activity is started.
 - Additional briefings, as needed, to make sure that the site-specific HASP is followed.
 - Make sure all employees working on the site are:
 - Informed of any risks identified.
 - Trained on how to protect themselves and other workers against the site hazards and risks.
- Update all information to reflect current site activities and hazards.

NEW SECTION

WAC 296-843-20010 Train workers, supervisors and managers before work begins on the site.

IMPORTANT:

- The eighty-hour training requirement does NOT apply to law enforcement personnel entering illicit drug labs, securing the premises, and obtaining evidence. Attendance at a forty-hour training course, such as presented by the criminal justice training commission, is acceptable.
- These training requirements do not apply to workers engaged in limited postemergency response activities provided they meet the conditions described in WAC 296-843-20020.

You must:

- Make sure workers have received twenty-four-, forty- or eighty-hour training as required by Table 3 before participating in hazardous waste operations.
 - Make sure workers also receive site-specific training that thoroughly covers at least the following:
 - The personnel responsible for employee safety and health.
 - Safety, health, and other hazards known or suspected at the site.
 - Use of personal protective equipment.
 - Work practices to minimize worker's risk from the hazards.

- Use of engineering and other controls and equipment on the site.
- Medical surveillance provided.
- Recognition of signs and symptoms that might indicate overexposure to site hazards.
- The contents of the site-specific health and safety plan (HASP) required by this chapter.

Note: The site-specific training can be provided as part of the twenty-four-, forty- or eighty-hour training or as part of the employee briefings provided all training and information requirements of WAC 296-843-200 are met.

**Table 3
Training Requirements**

If	Then	Notes
Work and exposures require use atmosphere supplying respirators (except for "occasionally on site" workers described below)	Provide eighty hours of training and three days of supervised on-site field experience	Eighty-hour training may be fulfilled as follows: <ul style="list-style-type: none"> • One eighty-hour training session with emphasis on hazards requiring the use of atmosphere-supplying respirators and of chemical protective clothing OR <ul style="list-style-type: none"> • One forty-hour training class as described below and an additional forty hours of training that emphasizes hazards requiring the use of atmosphere-supplying respirators and of chemical protective clothing Refresher training, previous courses, supervised field experience, and previous work experience may count towards the additional forty hours, if it improves the worker's competency to use respirators and chemical protective clothing ensembles and procedures
Work and exposures may exceed the PEL or require protective clothing but do not require atmosphere supplying respirators (except for "occasionally on site" workers described below)	Provide forty hours of training and three days of supervised on-site field experience	Workers with twenty-four hours of training may become forty hour trained with sixteen hours of off-site training and two additional days of supervised on-site field experience

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If	Then	Notes
Workers are occasionally on-site to perform specific limited tasks and unlikely to be exposed above PELs or other published exposure limits	Provide twenty-four hours of training and one day of supervised on-site field experience	
Workers are regularly on-site but work in areas fully characterized and monitored, with exposure under the PELs or other published exposure limits: <ul style="list-style-type: none"> • No need for respirators • No health hazards • No possibility of an emergency 	Provide twenty-four hours of training and one day of supervised on-site field experience	
Workers are at TSD facilities under normal operations (this does not include corrective actions cleanup at these facilities)	Provide twenty-four hours of training and one day of supervised on-site field experience	
Employees perform emergency response activities	Train workers to a level of competence in site emergencies, consistent with their assigned duties, to protect themselves and other employees	
Workers qualify for limited postemergency response cleanup	Provide at least eight hours of training	See WAC 296-843-20020, Training for postemergency response, for detailed training information
Workers have been previously trained (includes equivalent training)	Provide site-specific training, briefings and information required by this chapter and supervised field experience on the site of one day for twenty-four-hour and three days for forty- or eighty-hour trained workers	Document equivalent training and work experience as required by WAC 296-843-20025

Note: When calculating "training hours," WISHA assumes a "normal" workday of eight hours with sufficient time for lunch and other breaks.

NEW SECTION

WAC 296-843-20015 Provide training to your managers and supervisors.

You must:

- Make sure the following receive appropriate training:
 - On-site managers.
 - Supervisors responsible for hazardous waste operations.
 - Supervisors who directly supervise employees in hazardous waste operations.
- Make sure such supervisors and on-site managers receive the same training as that required by the workers they supervise (see WAC 296-843-20010).
- Make sure such supervisors and managers receive a minimum of eight additional hours of specialized training including the following information:
 - Written site-specific health and safety plan (HASP):
 - Training plan.
 - Personal protective equipment (PPE) plan.
 - Spill containment plan.
 - Emergency management procedures to use when a release of hazardous substances occurs.
 - Federal, state, and local agencies to be contacted if there is a release of hazardous substances.
 - Sampling and monitoring plan (including procedures and techniques for monitoring health hazards).
 - Managing hazardous wastes and their disposal.

NEW SECTION

WAC 296-843-20020 Training for postemergency response.

You must:

- Provide workers who participate only in limited postemergency response clean-up operations with a minimum of eight hours of training, when these conditions are met:
 - Cleanup is at a site that is a hazardous waste operation only because of an emergency response.
 - Cleanup work is directly supervised by someone who has completed at least forty hours of training in hazardous waste operations as required in this chapter.
 - Written documentation is maintained at the work site supporting less than twenty-four hours of training.
 - The work:
 - Is performed in an area that has been monitored and fully characterized by a qualified person as an area where employee exposure cannot exceed PELs or other published exposure levels.
 - Does not require using respiratory protection.
 - Does not require entry into permit-required confined spaces.
 - Involves minimal health risks from skin exposure and absorption that are effectively controlled by PPE.
 - Workers have received training in your emergency response plan and hazard communication program.

Reference: For additional information, see WAC 296-843-160, Emergency response, and WAC 296-800-170, Employer chemical hazard communication.

You must:

- Make sure workers complete any other safety and health training needed to perform assigned clean-up tasks in a safe and healthful manner.
 - Training may include topics such as the following:
 - Safety hazards and controls.

- The content and availability of the site-specific health and safety plan.
- Decontamination procedures.
- Operating procedures related to assigned clean-up tasks.
- PPE use and limitations.
- Hands-on exercises for PPE and decontamination.
- Information about heat stress and hypothermia.
 - Make sure workers have been trained within the last twelve months.

NEW SECTION

WAC 296-843-20025 Make sure your employees receive written documentation of training.

You must:

- Certify and document annually that each manager, supervisor, and worker has either:
 - Attended and successfully completed the training required by this section;
- OR**
- Demonstrated their competency.
- Record and maintain the method used to demonstrate competency.
 - Make sure your employees and supervisors who complete required training and field experience receive written training documentation authenticated by the responsible trainer.
 - Provide a copy of the certification or documentation to your employee upon request.

Note: Equivalent training may include academic or work-related training that covers subjects required by this chapter.

NEW SECTION

WAC 296-843-20030 Provide refresher training to employees.

You must:

- Make sure all certified employees, supervisors, and managers receive eight hours of refresher training at least every twelve months that covers:
 - The topics specified in WAC 296-843-200.
 - Assessments or evaluations of work-related incidents.
 - Any other relevant topics.

NEW SECTION

WAC 296-843-20035 Use qualified trainers.

You must:

- Use trainers that:
- Have demonstrated competent instructional skills.
 - Demonstrate knowledge of the subject matter and have either:
 - Satisfactorily completed a training program in the subject;
 - OR**
 - Have the academic credentials and instructional experience needed for teaching the subject.

NEW SECTION

WAC 296-843-210 Medical surveillance.

Your responsibility:

To provide medical surveillance for employees that work in hazardous waste operations.

You must:

Provide medical surveillance for your employees
WAC 296-843-21005.

NEW SECTION

WAC 296-843-21005 Provide medical surveillance for your employees.

You must:

- Establish a medical surveillance plan for all employees who meet any of the following:
 - Are or may be exposed to hazardous substances or health hazards for at least thirty days a year, at or above the permissible exposure limits (PELs) or other published exposure levels.
 - Wear a respirator for at least thirty days a year.
 - Are injured, become ill, or develop signs or symptoms of possible overexposure to hazardous substances or health hazards.
 - Are hazardous materials team (HAZMAT) members.

Reference: Employees who use respirators less than thirty days a year are required to have a respirator medical evaluation as outlined by chapter 296-842 WAC, Respirators. Completion of a medical examination required by this section will meet the requirement for a respirator medical evaluation.

You must:

- Make sure medical examinations, consultations, and procedures are:
 - Scheduled according to Table 4, Medical Examination Schedule.
 - Performed or supervised by a licensed physician.
 - Available:
 - At a reasonable time and place.
 - Without loss of pay.
 - Without cost to employees.

Note: Examples of costs include: Mileage, gas, bus fare, and time spent outside normal work hours.

**Table 4
Medical Examination Schedule**

If a worker	Then provide an examination
Is assigned to work that is covered by this chapter	Before work assignment begins
Continues to work in hazardous waste operations	At least once every twelve months, unless the attending physician decides a different interval, up to twenty-four months or less than twelve months, is appropriate

PROPOSED

If a worker	Then provide an examination
Needs to be examined more frequently based on the examining physician's medical judgment	At an interval less than twelve months
Is reassigned to an area where their work is not covered OR Employment is terminated	As soon as possible, unless he or she was examined within the past six months
Has an incident that results in injury or illness OR Develops signs or symptoms of possible overexposure to hazardous substances and health hazards OR Has been exposed above the permissible exposure limits or published exposure levels	As soon as possible
Requires follow-up examinations or consultations because of medical necessity for an exposure incident or injury	Whenever the examining physician determines

You must:

- Make sure the medical examination includes the following information for each affected employee:
 - A medical and work history, with special emphasis on symptoms related to handling hazardous substances and health hazards.
 - Information about fitness for duty including the ability to wear any personal protective equipment (PPE) under conditions that may be expected at the workplace.
 - Any additional information that is determined by the examining physician.

Note: The physician should consult the NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities <http://www.cdc.gov/niosh/85-115.html>.

You must:

- Provide complete information to the examining physician, including:
 - A copy of WAC 296-843-210.
 - Medical evaluation information required by chapter 296-842 WAC, Respirators.
 - A description of the employee's duties that relate to hazardous substance exposure.
 - The actual or anticipated hazardous substance exposure levels for the employee.
 - A description of the PPE the employee uses or could use.

- Information available from previous medical examinations.
- Instruction to the physician that the physician's written opinion NOT include specific findings or diagnoses that are not related to occupational exposures.

Note: You are NOT required to send duplicate information to the physician for each employee.

You must:

- Obtain the physician's written medical opinion that includes the following information:
 - Whether medical conditions were found that would increase the employee's risk for impairment during emergency response work or respirator use.
 - Limitations of the employee's assigned work, if any.
 - Examination and test results, if the employee requests this information.
 - A statement that the employee has been confidentially informed of medical examination results (including medical conditions requiring followup required by WAC 296-843-210).
- Provide the employee with a copy of the physician evaluation.

NEW SECTION

WAC 296-843-220 Recordkeeping and information access.

Your responsibility:

To keep records and make them accessible to employees.

You must:

- Make your records accessible
WAC 296-843-22005.
- Keep medical surveillance records for your employees
WAC 296-843-22010.

NEW SECTION

WAC 296-843-22005 Make your records accessible.

You must:

- Allow your written health and safety plan (HASP) and all other written plans required by this chapter to be inspected and copied by:
 - Employees or their designated representative.
 - Site contractors or their designated representatives.
 - Subcontractors or their designated representatives.
 - Personnel of any federal, state, or local agency with regulatory authority over the site.

NEW SECTION

WAC 296-843-22010 Keep medical surveillance records for your employees.

You must:

- Keep medical surveillance records for each affected employee that include:
 - The employee's name and Social Security number.
 - Physicians' written opinions including recommended limitations and results of examinations and tests.

- Any employee medical complaints regarding hazardous substance exposures.
- A copy of all information given to the examining physician (except a copy of this chapter).
- Keep each employee's records for at least the duration of his or her employment plus thirty years.

Reference: For additional requirements on medical and exposure records, see chapter 296-62 WAC, Part B, Access to records.

NEW SECTION

WAC 296-843-300 Definitions.

Buddy system

A system of organizing employees into work groups so that each employee is assigned to observe another employee in the same work group. The purpose of this system is to provide rapid assistance to employees in the event of an emergency.

Clean-up operation

An operation where hazardous substances are removed, contained, incinerated, neutralized, stabilized, cleared-up, or in any other manner processed or handled with the goal of making the site safer for people or the environment.

Contamination reduction zone

The buffer zone between the exclusion and the clean zone.

Decontamination

The removal of hazardous substances from employees and equipment, to the extent necessary, to avoid foreseeable adverse health effects.

Emergency response or responding to emergencies

An organized response to an anticipated release of a hazardous substance that is, or could become, an uncontrolled release.

Exclusion zone

A controlled area at a site, where contamination occurs, that is a risk to human health or the environment.

Exposure or exposed

Employee contact with a toxic substance, harmful physical agent, or oxygen deficient condition. Exposure can occur through various routes of entry, such as inhalation, ingestion, skin contact, or skin absorption.

Facility

Any building structure, installation, equipment, pipe, or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, storage container, motor vehicle, rolling stock, or aircraft;

OR

Any site or area where a hazardous substance has been deposited, stored, disposed of, placed, or otherwise located (not including any boat, ship or barge).

Hazardous substance

Any of the following substances that could adversely affect an exposed employee's health or safety:

- Substances defined under section 101(14) of the Comprehensive Environmental Response, Compensation and Lia-

bility Act of 1980 (CERCLA) or "Superfund" Act (found at: <http://www.epa.gov>).

- Biological or other disease-causing agents released that could reasonably be expected to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations in a person or their offspring when the person:

- Is directly exposed to the agent in the environment.
- Directly ingests, inhales, or assimilates the agent from the environment.

- Indirectly ingests the agent through a food chain.

- Substances listed by the United States Department of Transportation as hazardous materials under Title 49 (Transportation) in the Code of Federal Regulations (CFR), Part 172, section 101 and appendices (found at: <http://www.nara.gov>, search for "List of CFR subjects").

- Hazardous wastes as defined in this chapter.

Hazardous waste

Any substance designated by the department of ecology as a dangerous or extremely hazardous waste by chapter 173-303 WAC, Dangerous waste regulations.

Hazardous waste site

A hazardous waste site is any facility or location within the scope of this chapter. This chapter applies if you have any of the following:

- Employees working in operations involving hazardous waste at a treatment, storage, and disposal (TSD) facility required to have a permit or interim status AND regulated by any of the following:

- 40 CFR Parts 264 and 265 under the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901 et seq.;

- Agencies implementing RCRA through agreements with the United States Environmental Protection Agency (U.S.E.P.A.);

- Chapter 173-303 WAC, Dangerous waste regulations;

OR

- Employees conducting initial investigations of government-identified sites before the presence or absence of hazardous substances has been determined;

OR

- Employees working at a hazardous waste site to make the site safer for people or the environment. Sites include, but are not limited to:

- The Environmental Protection Agency's (EPA) National Priority Site List (NPL); see <http://www.epa.gov/superfund/sites/npl/wa.htm>;

- Sites recommended for inclusion on the EPA NPL;

- State priority site lists, for example those listed under chapter 173-340 WAC, Model Toxics Control Act (MTCA); see <http://www.ecy.wa.gov/programs/tcp/cscs/CSCSpage.HTM>;

- Unlisted sites recognized by a federal, state or local government as an uncontrolled hazardous waste site. Examples of such sites include:

- Those exceeding clean-up goals established by the MTCA that pose a threat or potential threat to human health or the environment.

■ **Clandestine drug lab sites designated for cleanup.**

– Sites covered by the Resource Conservation and Recovery Act of 1976 (RCRA) as amended (42 U.S.C. 6901 et seq.) or chapter 70.105 RCW, Hazardous waste management.

– Postemergency response cleanup at the site of a hazardous substance release regulated by chapter 296-824 WAC, Emergency response.

Hazardous materials team (HAZMAT team)

A group of employees who are expected to perform responses to releases, or possible releases, of hazardous substances for the purpose of control and stabilization. As a result of their duties, HAZMAT team members may have close contact with hazardous substances.

Health hazard

A chemical, mixture, biological agent, or physical agent that may cause health effects in short- or long-term exposed employees based on statistically significant evidence from at least one study conducted using established scientific principles. Health hazards include:

- Carcinogens.
- Toxic or highly toxic agents.
- Reproductive toxins.
- Irritants.
- Corrosives.
- Sensitizers.
- Hepatotoxins (liver toxins).
- Nephrotoxins (kidney toxins).
- Neurotoxins (nervous system toxins).
- Substances that act on the hematopoietic system (blood or blood-forming system).
- Substances that can damage the lungs, skin, eyes, or mucous membranes.

- Hot or cold conditions.

IDLH or immediately dangerous to life or health

Any atmospheric condition that would:

- Cause an immediate threat to life;

OR

- Cause permanent or delayed adverse health effects;

OR

- Interfere with an employee's ability to escape.

Incidental release

A release that can be safely controlled at the time of the release and does not have the potential to become an uncontrolled release.

An example of a situation that results in an incidental release:

A tanker truck is receiving a load of hazardous liquid when a leak occurs. The driver knows the only hazard from the liquid is minor skin irritation. The employer has trained the driver on procedures and provided equipment to use for a release of this quantity. The driver puts on skin protection and stops the leak. A spill kit is used to contain, absorb, and pick up the spilled material for disposal.

Material safety data sheet (MSDS)

Written, printed, or electronic information (on paper, microfiche, or on-screen) that informs manufacturers, distributors, employers or employees about a hazardous chemical, its hazards and protective measures as required by chapter

296-839 WAC, Content and distribution of material safety data sheets (MSDSs) and label information.

Oxygen deficiency

An atmosphere where the percentage of oxygen by volume is less than 19.5%.

Permissible exposure limit (PEL)

Permissible exposure limits (PELs) are employee exposures to toxic substances or harmful physical agents that must not be exceeded. PELs are specified in applicable WISHA rules.

Published exposure level

Exposure limits published in "*National Institute for Occupational Safety and Health (NIOSH) Recommendations for Occupational Safety and Health*" (DHHS publication #92-100, 1992).

If an exposure limit is not published by NIOSH, then "published exposure level" means the exposure limits published by the American Conference of Governmental Industrial Hygienists (ACGIH) in "*TLVs and BEIs-Threshold Limit Values for Chemical Substances and Physical Agents*" (1999 edition).

Postemergency response

The stage of the emergency response where the immediate threat from the release has been stabilized or eliminated, and cleanup of the site has started. For more information, see the definition for "emergency response."

Site safety and health supervisor (or official)

The individual present at a hazardous waste site who is responsible to the employer and has the authority and knowledge necessary to establish the site-specific health and safety plan and verify compliance with applicable safety and health requirements.

Site work zones

Zones established at a hazardous waste site before cleanup work begins to control work on the site and access to the site. The work zones are: Exclusion zone, contamination reduction zone, and clean zone.

Uncontrolled hazardous waste site

An area identified as an uncontrolled hazardous waste site by a governmental body, whether federal, state, local, or other, where an accumulation of hazardous substances creates a threat to the health and safety of individuals or the environment or both. Examples include: Former municipal, county, or state landfills, locations where illegal or poorly managed waste disposal has taken place, or property of generators or former generators of hazardous substance waste (surface impoundments, landfills, dumps, and tank or drum farms).

WSR 03-14-075

PROPOSED RULES

DEPARTMENT OF

LABOR AND INDUSTRIES

[Filed June 27, 2003, 9:17 a.m.]

Original Notice.

PROPOSED

Preproposal statement of inquiry was filed as WSR 02-09-091.

Title of Rule: Chapter 296-831 WAC, Cranes, derricks, and other lifting equipment; and chapter 296-24 WAC, General safety and health standards.

Purpose: The Cranes and Derricks standards are being rewritten and reorganized for clarity and ease of use for employers and employees. This rule making is part of our clear rule-writing initiative to rewrite for clarity all the safety and health rules.

Outdated requirements are being updated to reflect current consensus standards for the industry. Language that is difficult to understand and outmoded has been rewritten for clarity and ease of use.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: The Department of Labor and Industries is proposing to clarify requirements relating to cranes, derricks, and other lifting equipment.

New Sections: WAC 296-831-100 Cranes, derricks and other lifting equipment scope, 296-831-200 Bridgestyle cranes introduction, 296-831-210 Design and installation requirements for bridgestyle cranes, 296-831-21005 Make sure equipment meets the appropriate design and construction requirements of this rule, 296-831-21010 Use rail clamps and wind indicators, 296-831-21015 Have rated load markings on your cranes, 296-831-21020 Maintain proper clearances, 296-831-21025 Provide safe access to bridgestyle cranes, 296-831-21030 Provide stops for all bridgestyle cranes, 296-831-21035 Provide bumpers and rail sweeps for top-running bridge cranes, 296-831-21040 Provide adequate guards on cranes, 296-831-21045 Make sure electrical equipment is safe, 296-831-21050 Use proper controllers, 296-831-21055 Provide safe switches, 296-831-21060 Have a warning device on the crane, 296-831-21065 Provide fire extinguishers for bridgestyle cranes, 296-831-21070 Store personal and work materials properly on bridgestyle cranes, 296-831-220 Hoisting equipment for bridgestyle cranes, 296-831-22005 Use and maintain sheaves on bridgestyle cranes properly, 296-831-22010 Follow these requirements when using hoisting ropes on bridgestyle cranes, 296-831-22015 Use reeving accessories on bridgestyle cranes correctly, 296-831-22020 Use hooks on bridgestyle cranes correctly, 296-831-230 Inspections, maintenance, and testing of bridgestyle cranes, 296-831-23005 Perform initial inspections on bridgestyle cranes, 296-831-23010 Perform frequent inspections on bridgestyle cranes, 296-831-23015 Perform periodic inspections on bridgestyle cranes, 296-831-23025 Inspect wire rope on bridgestyle cranes regularly, 296-831-23030 Replace wire rope on bridgestyle cranes as required, 296-831-23035 Maintain and store wire rope for bridgestyle cranes safely, 296-831-23040 Replace chain as required, 296-831-23045 Establish and follow safe maintenance and repair procedures for bridgestyle cranes, 296-831-23050 Lubricate parts safely, 296-831-23055 Repair or replace hooks on bridgestyle cranes as required, 296-831-23060 Perform operational tests on bridgestyle cranes, 296-831-240 Operating bridgestyle cranes, 296-831-24005 Allow bridgestyle cranes to be oper-

ated only by specific people, 296-831-24010 Attach the load to bridgestyle cranes correctly, 296-831-24015 Operate bridgestyle cranes safely, 296-831-24020 Perform planned engineered lifts with bridgestyle cranes correctly, 296-831-300 Mobile Cranes Introduction, 296-831-310 Design and installation requirements for mobile cranes, 296-831-31005 Make sure equipment meets appropriate design and construction requirements of this rule, 296-831-31010 Have rated capacity charts available, 296-831-31015 Maintain booms in a safe operating condition, 296-831-31020 Provide two-blocking protection on mobile cranes, 296-831-31025 Provide fire extinguishers on mobile cranes, 296-831-31030 Store personal and work materials properly on mobile cranes, 296-831-320 Hoisting equipment for mobile cranes, 296-831-32005 Use and maintain sheaves on mobile cranes properly, 296-831-32010 Follow these requirements when using hoisting ropes on mobile cranes, 296-831-32015 Use reeving accessories on mobile cranes correctly, 296-831-32020 Use hooks on mobile cranes correctly, 296-831-330 Inspections, maintenance and testing for mobile cranes, 296-831-33005 Perform initial inspections on mobile cranes, 296-831-33010 Perform frequent inspections on mobile cranes, 296-831-33015 Perform periodic inspections on mobile cranes, 296-831-33020 Inspect wire rope for mobile cranes regularly, 296-831-33025 Replace wire rope on mobile cranes as required, 296-831-33030 Maintain and store wire rope for mobile cranes safely, 296-831-33035 Refuel mobile cranes properly, 296-831-33040 Establish and follow safe maintenance procedures for mobile cranes, 296-831-33045 Repair or replace hooks on mobile cranes as required, 296-831-33050 Perform testing on mobile cranes, 296-831-340 Operating mobile cranes, 296-831-34005 Allow mobile cranes to be operated only by specific people, 296-831-34015 Make sure mobile crane operators pass examinations and evaluations, 296-831-34016 Attach the load correctly on mobile cranes, 296-831-34020 Operate mobile cranes safely, 296-831-34025 Move mobile cranes correctly, 296-831-400 Tower, portal and pedestal cranes introduction, 296-831-410 Design and installation requirements for tower, portal and pedestal cranes, 296-831-41005 Follow manufacturer's recommendations when installing and erecting tower, portal and pedestal cranes, 296-831-41010 Make sure tower, portal and pedestal cranes are erected properly, 296-831-41015 Make sure tower, portal and pedestal crane supports are safe, 296-831-41020 Have load rating charts for tower, portal and pedestal cranes available, 296-831-41025 Provide safe access to tower, portal and pedestal cranes, 296-831-41030 Keep tower, portal and pedestal brakes in safe operating condition, 296-831-41035 Provide two-blocking protection on tower, portal and pedestal cranes, 296-831-41040 Make sure electrical equipment on tower, portal and pedestal cranes is safe, 296-831-41045 Mark operating controls on tower, portal and pedestal cranes, 296-831-41050 Use lifting magnets properly, 296-831-41055 Equip traveling cranes properly, 296-831-41060 Provide fire extinguishers for tower, portal and pedestal cranes, 296-831-41065 Store personal and work materials properly on tower, portal and pedestal cranes, 296-831-420 Hoisting equipment for tower, portal and pedestal cranes, 296-831-42005 Use and maintain sheaves on tower, portal and pedestal cranes properly, 296-831-42010 Follow

PROPOSED

these requirements when using hoisting ropes on tower, portal and pedestal cranes, 296-831-42015 Use reeving accessories on tower, portal and pedestal cranes correctly, 296-831-42020 Use hooks on tower, portal and pedestal cranes correctly, 296-831-430 Inspections, maintenance, and testing of tower, portal and pedestal cranes, 296-831-43005 Perform initial inspections on tower, portal and pedestal cranes, 296-831-43010 Perform frequent inspections on tower, portal and pedestal cranes, 296-831-43015 Perform periodic inspections on tower, portal and pedestal cranes, 296-831-43020 Inspect wire rope for tower, portal and pedestal cranes regularly, 296-831-43025 Replace wire rope for tower, portal and pedestal cranes as required, 296-831-43030 Maintain and store wire rope for tower, portal and pedestal cranes safely, 296-831-43035 Refuel tower, portal and pedestal cranes properly, 296-831-43040 Establish and follow safe maintenance and repair procedures for tower, portal and pedestal cranes, 296-831-43045 Repair or replace hooks on tower, portal and pedestal cranes as required, 296-831-43050 Perform operational tests on tower, portal and pedestal cranes, 296-831-43055 Test supports on newly installed tower, portal and pedestal cranes, 296-831-43060 Perform necessary load tests on repaired, modified or altered cranes, 296-831-440 Operating tower, portal and pedestal cranes, 296-831-44005 Allow tower, portal and pedestal cranes to be operated only by specific people, 296-831-44010 Attach the load to the tower, portal or pedestal crane correctly, 296-831-44015 Operate tower, portal and pedestal cranes safely, 296-831-500 Derricks introduction, 296-831-510 Design and Installation Requirements for Derricks, 296-831-51005 Make sure equipment meets the appropriate design and construction requirements of this rule, 296-831-51010 Have load rating charts for derricks available, 296-831-51015 Have radius or boom angle indicators on derricks, 296-831-51020 Mark operating controls on derricks, 296-831-51025 Provide fire extinguishers for derricks, 296-831-51030 Store personal and work materials properly on derricks, 296-831-520 Hoisting equipment for derricks, 296-831-52005 Use and maintain sheaves on derricks properly, 296-831-52010 Follow these requirements when using hoisting ropes on derricks, 296-831-52015 Use reeving accessories on derricks correctly, 296-831-52020 Use hooks on derricks correctly, 296-831-530 Inspections, maintenance and testing of derricks, 296-831-53005 Perform initial inspections on derricks, 296-831-53010 Perform frequent inspections on derricks, 296-831-53015 Perform periodic inspections on derricks, 296-831-53020 Inspect wire rope for derricks regularly, 296-831-53025 Replace wire rope for derricks as required, 296-831-53030 Refuel derricks properly, 296-831-53035 Establish and follow safe maintenance and repair procedures for derricks, 296-831-53040 Repair or replace hooks on derricks as required, 296-831-53045 Perform operational tests on derricks, 296-831-53050 Perform load tests on derricks, 296-831-540 Operating derricks, 296-831-54005 Assign a designated person to direct operations, 296-831-54010 Allow derricks to be operated only by specific people, 296-831-53015 Attach the load to the derrick correctly, 296-831-54020 Operate derricks safely, and 296-831-900 Definitions.

Repealed Sections: WAC 296-24-235 Overhead and gantry cranes.

- Title, no requirements in here.

WAC 296-24-23503 General requirements.

- Moved requirements from this section to WAC 296-831-200, 296-831-210, 296-831-21005, 296-831-21010, 296-831-21015, 296-831-21020, and 296-831-24005.

WAC 296-24-23505 Cabs.

- Moved requirements from this section to WAC 296-831-21025 and 296-831-21065.

WAC 296-24-23507 Footwalks and ladders.

- Moved requirements from this section to WAC 296-831-21025.

WAC 296-24-23509 Stops, bumpers, rail sweeps, and guards.

- Moved requirements from this section to WAC 296-831-21030, 296-831-21035, and 296-831-21040.

WAC 296-24-23511 Brakes.

- Moved requirements from this section to WAC 296-831-21005.

WAC 296-24-23513 Electric equipment.

- Moved requirements from this section to WAC 296-831-21045 and 296-831-21050.

WAC 296-24-23515 Hoisting equipment.

- Moved requirements from this section to WAC 296-831-22005, 296-831-22010, 296-831-22015, and 296-831-22020.

WAC 296-24-23517 Warning device.

- Moved requirements from this section to WAC 296-831-21060.

WAC 296-24-23519 Inspection.

- Moved requirements from this section to WAC 296-831-23005, 296-831-23010, and 296-831-23015.

WAC 296-24-23521 Testing.

- Moved requirements from this section to WAC 296-831-23055.

WAC 296-24-23523 Maintenance.

- Moved requirements from this section to WAC 296-831-23040.

WAC 296-24-23525 Rope inspection.

- Moved requirements from this section to WAC 296-831-23020 and 296-831-23025.

WAC 296-24-23527 Handling the load.

- Moved requirements from this section to WAC 296-831-24010 and 296-831-24015.

WAC 296-24-23529 Operators.

- Moved requirements from this section to WAC 296-831-24005.

WAC 296-24-23531 Other requirements—General.

- Moved requirements from this section to WAC 296-831-21065 and 296-831-21070.

WAC 296-24-240 Crawler locomotive and truck cranes.

- Title; no requirements in here.

WAC 296-24-24003 General requirements.

- Moved requirements from this section to WAC 296-831-310 and 296-831-31005.

WAC 296-24-24005 Load ratings.

- Moved requirements from this section to WAC 296-831-31010, 296-831-32020, and 296-831-33005.

WAC 296-24-24007 Inspection classification.

- Moved requirements from this section to WAC 296-831-33010 and 296-831-33015.

WAC 296-24-24009 Testing.

- Moved requirements from this section to WAC 296-831-33050.

WAC 296-24-24011 Maintenance procedure.

- Moved requirements from this section to WAC 296-831-33010, 296-831-33015, and 296-831-33040.

WAC 296-24-24013 Rope inspection.

- Moved requirements from this section to WAC 296-831-33020 and 296-831-33025.

WAC 296-24-24015 Handling the load.

- Moved requirements from this section to WAC 296-831-34015, 296-831-33020, and 296-831-33025.

WAC 296-24-24017 Other requirements.

- Moved requirements from this section to WAC 296-831-34015, 296-831-31025, 296-831-31030, and 296-831-33035.

WAC 296-24-24019 Operating near overhead electric power lines.

- Requirements from this section are found in chapter 296-24 WAC, Part L.

WAC 296-24-245 Derricks.

- Title, no requirements in here.

WAC 296-24-24503 General requirements.

- Moved requirements from this section to WAC 296-831-51005 and 296-831-54010.

WAC 296-24-24505 Load ratings.

- Moved requirements from this section to WAC 296-831-51010.

WAC 296-24-24507 Inspection.

- Moved requirements from this section to WAC 296-831-53005, 296-831-53010, and 296-831-53015.

WAC 296-24-24509 Testing.

- Moved requirements from this section to WAC 296-831-53045 and 296-831-53050.

WAC 296-24-24511 Maintenance.

- Moved requirements from this section to WAC 296-831-53005, 296-831-53010, and 296-831-53035.

WAC 296-24-24513 Rope inspection.

- Moved requirements from this section to WAC 296-831-53020 and 296-831-53025.

WAC 296-24-24515 Operations of derricks.

- Moved requirements from this section to WAC 296-831-54005.

WAC 296-24-24517 Handling the load.

- Moved requirements from this section to WAC 296-831-54015 and 296-831-54020.

WAC 296-24-24519 Other requirements.

- Moved requirements from this section to 296-831-52015, 296-831-52020, 296-831-51025, 296-831-51030, and 296-831-53030.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Department of Labor and Industries is proposing to clarify requirements relating to cranes, derricks, and other lifting equipment. This rule making is part of our clear rule-writing initiative to rewrite for clarity all the safety and health rules. See Purpose above.

Proposal Changes the Following Existing Rules: Some requirements were updated to current industry consensus standards.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has rewritten requirements to clarify and better organize existing language of chapter 296-24 WAC, Part D, Materials handling and storage, including cranes, derricks, etc. and rigging, without changing its effect. The clarified requirements are being published as chapter 296-831 WAC, Cranes, derricks and other lifting equipment. As such, a small business economic impact statement (SBEIS) is not required per RCW 34.05-310 (4)(d).

We are also incorporating, without material change, national consensus code requirements. RCW 34.05.310 (4)(c) exempts the agency from conducting an SBEIS under such conditions.

RCW 34.05.328 applies to this rule adoption. This rule is exempt under RCW 34.05.328 (5)(b) since it only corrects typographical errors and clarifies language without changing its effect. We are also incorporating, without material change, national consensus code requirements. The proposal does not increase requirements.

Hearing Location: Department of Labor and Industries Building, 7273 Linderson Way S.W., Auditorium, Tumwater, WA, on August 26, 2003, at 1:00 p.m.; and at the Department of Labor and Industries Building, 901 North Monroe Street, Suite 100, Spokane, WA, on August 28, 2003, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Sally Elliott by August 7, 2003, at (360) 902-5484.

Submit Written Comments to: Kimberly Johnson, WISHA Services Division, P.O. Box 44620, Olympia, WA 985-4-4620 [98504-4620], e-mail rhok235@lni.wa.gov, fax (360) 902-5529, by September 4, 2003.

Date of Intended Adoption: November 1, 2003.
 June 27, 2003
 Paul Trause
 Director

PROPOSED

NEW SECTION

WAC 296-831-400 Tower, portal and pedestal cranes.

Introduction:

WAC 296-831-400 through 296-831-440 apply to these cranes:

- Pedestal.
- Portal.
- Tower.

Exemption: Cranes used for construction, or those frequently disassembled, are not covered by this rule.

In this rule, job duties are assigned to either designated personnel, employees under the direction of designated personnel, or qualified personnel. Use Table 1 for guidance on which duties need specific personnel to perform them.

**Table 400-1
 Roles of Designated and Qualified Persons For Tower,
 Portal and Pedestal Cranes**

Activity	Performed By		
	Designated Personnel	Someone under the direction of a Designated Person	Qualified Person
Initial inspection			X
Frequent inspection	X		
Periodic inspection	X		
Operational testing		X	
Rated load testing		X	
Repairs and adjustments	X		

NEW SECTION

WAC 296-831-410 Design and installation requirements for tower, portal and pedestal cranes.

Your responsibility:

To make sure your tower, portal and pedestal cranes are safe for operation.

You must:

Follow manufacturer's recommendations when installing and erecting tower, portal and pedestal cranes

WAC 296-831-41005.

Make sure tower, portal and pedestal cranes are erected properly

WAC 296-831-41010.

Make sure tower, portal and pedestal crane supports are safe WAC 296-831-41015.

Have load-rating charts for tower, portal and pedestal cranes available

WAC 296-831-41020.

Provide safe access to tower, portal and pedestal cranes

WAC 296-831-41025.

Keep tower, portal and pedestal brakes in safe operating condition

WAC 296-831-41030.

Provide two-blocking protection on tower, portal and pedestal cranes

WAC 296-831-41035.

Make sure electrical equipment on tower, portal and pedestal cranes is safe

WAC 296-831-41040.

Mark operating controls on tower, portal and pedestal cranes

WAC 296-831-41045.

Use lifting magnets properly

WAC 296-831-41050.

Equip traveling cranes properly

WAC 296-831-41055.

Provide fire extinguishers

WAC 296-831-41060.

Store personal and work materials properly

WAC 296-831-41065.

NEW SECTION

WAC 296-831-41005 Follow manufacturer's recommendations when installing and erecting tower, portal and pedestal cranes.

You must:

- Follow the manufacturer's recommendations when installing and erecting cranes.
- If the manufacturer's recommendations are not available, refer to ASME B30.4 - 1996 edition, including addenda A (1998) and B (1999).

NEW SECTION

WAC 296-831-41010 Make sure tower, portal and pedestal cranes are erected properly.

You must:

- Keep the manufacturer's or a qualified person's written erection instructions and a list of the weights of each component at the erection site for cranes erected or modified after 1990.
- Make sure a qualified person supervises the erection.
- Make sure the erection is performed in accordance with the manufacturer's or qualified person's recommendation.
- Make sure components are visually inspected before erection.

- Make sure that cranes that have been installed or modified after 1981 and that are required to weathervane when out of service are installed so that there is enough clearance for the boom and the superstructure to swing through a full three hundred sixty degree arc without hitting any object.

NEW SECTION

WAC 296-831-41015 Make sure tower, portal and pedestal crane supports are safe.

You must:

(1) Make sure rails on cranes installed or modified after 1973:

- Are securely attached to the supporting surface in a way that will withstand pressure applied by the maximum rated load.

- Have smooth joints in any rail splices.

(2) Are electrically grounded when they carry cranes that are electrically powered from an outside source.

NEW SECTION

WAC 296-831-41020 Have load-rating charts for tower, portal and pedestal cranes available.

You must:

- Make sure a durable, legible load-rating chart for each crane is available to the operator while at the controls.

NEW SECTION

WAC 296-831-41025 Provide safe access to tower, portal and pedestal cranes.

You must:

- Provide safe access to cabs, machinery platforms, and towers of cranes by access ladders or stairs.

Reference: See requirements for ladders and stairways in chapter 296-24 WAC, Part J-1 and WAC 296-800-250.

NEW SECTION

WAC 296-831-41030 Keep tower, portal and pedestal brakes in safe operating condition.

You must:

- Make sure cranes installed or modified after 1973 have:
 - A power control braking means that is able to maintain controlled lowering speeds.

- At least one brake on the load hoist mechanism that has a holding capacity of at least one hundred twenty-five percent of the full load hoisting torque.

- An automatic way of stopping and holding the load if the actuating force is removed.

NEW SECTION

WAC 296-831-41035 Provide two-blocking protection on tower, portal and pedestal cranes.

You must:

- Make sure the load hoist of each crane installed or modified after 1973 has either a:

- Two-block limiting device;
- OR**
- Two-block warning feature.

NEW SECTION

WAC 296-831-41040 Make sure electrical equipment on tower, portal and pedestal cranes is safe.

You must:

- Make sure each electrically powered crane installed or modified after 1990 has a main disconnect switch:

- Mounted at or near the base of the crane.
- Able to be locked in the "OFF" position.

Reference: See WAC 296-800-280, Basic electrical rules, and chapter 296-24 WAC, Part L for additional wiring and electrical equipment requirements.

NEW SECTION

WAC 296-831-41045 Mark operating controls on tower, portal and pedestal cranes.

You must:

- Make sure that operating controls are marked with their function.

NEW SECTION

WAC 296-831-41050 Use lifting magnets properly.

You must:

- Make sure cranes installed or modified after 1973 that use a lifting magnet have a separate magnet circuit switch that is:

- Enclosed.
- Able to be locked in the open or "OFF" position.
- Connected on the power supply side of the crane disconnect switch.

- Make sure there is a way of discharging the inductive load of the lifting magnet.

- Make sure that loss of the remote signal, for a remote-operated crane installed or modified after 1996, does not demagnetize the lifting magnet.

NEW SECTION

WAC 296-831-41055 Equip traveling cranes properly.

You must:

- Make sure traveling cranes installed or modified after 1973 have:

- Sweeps on the trucks, in front of the leading wheels, that extend to the top of the rail.

- Guards on truck wheels.

- Make sure traveling cranes installed or modified after 1990 have:

- A warning signal that goes on automatically whenever the crane moves.

- Brakes that:

- Hold the crane in position when not traveling.

- Lock the wheels against rotation to resist wind and operational forces.

- Automatically engage when power or actuating pressure is removed and power is not applied to the travel drive.

- Provide a way of locking the wheels against rotation when the crane is out-of-service.

NEW SECTION

WAC 296-831-41060 Provide fire extinguishers for tower, portal and pedestal cranes.

You must:

- Make sure a fire extinguisher, with a minimum rating of 10 BC, is kept in the crane cab or at the machinery housing.

Reference: See additional requirements in WAC 296-800-300, Portable fire extinguishers, found in the safety and health core rules.

NEW SECTION

WAC 296-831-41065 Store personal and work materials properly on tower, portal and pedestal cranes.

You must:

- Make sure clothing, personal belongings, tools, and other necessary articles are stored so they do not interfere with crane access or operation.

NEW SECTION

WAC 296-831-420 Hoisting equipment for tower, portal and pedestal cranes.

Your responsibility:

To make sure hoisting equipment on tower, portal and pedestal cranes is used correctly.

You must:

Use and maintain sheaves properly

WAC 296-831-42005.

Follow these requirements when using hoisting ropes

WAC 296-831-42010.

Use reeving accessories correctly

WAC 296-831-42015.

Use hooks correctly

WAC 296-831-42020.

NEW SECTION

WAC 296-831-42005 Use and maintain sheaves on tower, portal and pedestal cranes properly.

You must:

- Make sure sheaves on cranes installed or modified after 1973 are:

- Smooth and free from surface defects that could cause wire rope damage.

- Provided with guards or other methods to guide the rope into the groove of the sheave, if the rope can be momentarily unloaded.

NEW SECTION

WAC 296-831-42010 Follow these requirements when using hoisting ropes on tower, portal and pedestal cranes.

You must:

- Make sure wire rope is used as follows:

- Use only wire ropes recommended by the crane manufacturer.

- Follow the manufacturer's recommendations when socketing.

- Make sure tension in all parts of the rope is equal, if more than one part is used to support the load.

- Attach the wire rope to the crane as follows:

- The rope end must be anchored to the drum as specified by the crane or rope manufacturer.

- There must be enough rope so that at least two wraps of rope are on the drum when the hook is in its lowest position.

NEW SECTION

WAC 296-831-42015 Use reeving accessories on tower, portal and pedestal cranes correctly.

You must:

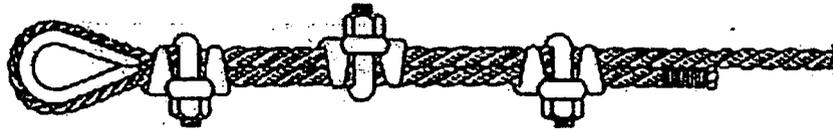
- Use reeving accessories correctly, as follows:

- Attach U-bolts on the dead or short end of the wire rope, with the live end resting in the saddle (see Illustration 400-1).

PROPOSED



Right Way For Maximum Rope Strength



Wrong Way: Clips Straggered



Wrong Way: Clips Reversed

- Use only drop-forged steel wire rope clips.
- Follow the clip manufacturer's recommendation for spacing, number of clips, and tightening evenly to the recommended torque values.
- Retighten all nuts on clip bolts after initial load is applied to newly installed wire rope.

- Make sure swaged, compressed or wedged socket fittings are applied as recommended by the wire rope, crane, or fitting manufacturer.

- Make sure wire rope clips used with wedged sockets are attached only to the unloaded dead end. See Illustration 400-2.

Note: Piggy-back style wire rope clips may be used if manufacturer's directions are followed.



Loop Back Method



Extra Piece of Same Size Rope is Clipped to Main Rope

NEW SECTION

WAC 296-831-42020 Use hooks correctly on tower, portal and pedestal cranes.

You must:

- Make sure hooks:
 - Are either latched, with the latch bridging the throat opening of the hook, or are moused.
 - Meet the manufacturer's recommendations.
 - Are not overloaded.

NEW SECTION

WAC 296-831-430 Inspections, maintenance, and testing of tower, portal and pedestal cranes.

Your responsibility:

To keep tower, portal and pedestal cranes in safe operating condition by performing regular inspections, maintenance, and testing.

You must:

Perform initial inspections on tower, portal and pedestal cranes

WAC 296-831-43005.

PROPOSED

Perform frequent inspections on tower, portal and pedestal cranes

WAC 296-831-43010.

Perform periodic inspections on tower, portal and pedestal cranes

WAC 296-831-43015.

Inspect wire rope for tower, portal and pedestal cranes regularly

WAC 296-831-43020.

Maintenance:

Replace wire rope for tower, portal and pedestal cranes as required

WAC 296-831-43025.

Maintain and store wire rope for tower, portal and pedestal cranes safely

WAC 296-831-43030.

Refuel tower, portal and pedestal cranes properly

WAC 296-831-43035.

Establish and follow safe maintenance and repair procedures for tower, portal and pedestal cranes

WAC 296-831-43040.

Repair or replace hooks on tower, portal and pedestal cranes as required

WAC 296-831-43045.

Testing:

Perform operational tests on tower, portal and pedestal cranes

WAC 296-831-43050.

Test supports on newly installed tower, portal and pedestal cranes

WAC 296-831-43055.

Perform necessary load tests on repaired, modified or altered tower, portal and pedestal cranes

WAC 296-831-43060.

IMPORTANT:

The levels of service (light, normal, heavy, severe) used to separate the frequency of inspections on cranes are defined differently depending on the type of crane being used. For the purposes of WAC 296-831-420, the following definitions apply:

Light service: Service involving irregular operation, lifting loads that are generally one-half or less of the rated load.

Normal service: Service involving operating at less than eighty-five percent of the rated load, with no more than ten lift cycles per hour except in isolated instances.

Heavy service: Service involving operating:

- At eighty-five percent to one hundred percent of the rated load;

OR

- More than ten lift cycles per hour as a regular procedure.

NEW SECTION

WAC 296-831-43005 Perform initial inspections on tower, portal and pedestal cranes.

You must:

• Make sure a qualified person inspects all cranes before use when they have been:

- Newly installed.
- Altered.
- Repaired.
- Modified.
- Reinstalled.
- Idle for more than twelve months.

• Make sure this inspection includes all items in Table 400-1, Frequent Inspection Checklist, Table 400-2, Periodic Inspection Checklist, and Table 400-3, Wire Rope Inspection.

NEW SECTION

WAC 296-831-43010 Perform frequent inspections on tower, portal and pedestal cranes.

You must:

• Make sure a designated person conducts frequent inspections on cranes in or available for use as follows:

- Perform inspections according to Table 400-2, Frequent Inspection Checklist.
- Examine any problems observed during the operation of the crane.
- Make sure a designated person conducts a more detailed inspection if hazardous conditions are found during the inspection.
- Make sure the crane is not used until any hazardous conditions found during the inspection have been corrected.

**Table 400-2
Frequent Inspection Checklist for Tower, Portal and Pedestal Cranes**

Items to Check	How Often
Control mechanisms for: <ul style="list-style-type: none"> • Maladjustment that interferes with proper operation 	Daily for cranes in use
Hydraulic system for: <ul style="list-style-type: none"> • Proper fluid level 	Before use, for cranes idle more than one month
Control mechanisms for: <ul style="list-style-type: none"> • Wear of components • Contamination by lubricants 	Heavy service: Daily to weekly Normal service: Weekly to monthly
Crane function operating mechanisms for: <ul style="list-style-type: none"> • Maladjustment • Wear of components 	
Motion limiting devices for: <ul style="list-style-type: none"> • Proper operation with the crane unloaded 	Light service: At least once a month Before returning to service for cranes idle more than a month

Items to Check	How Often
<ul style="list-style-type: none"> Each motion should be inched into its limiting device or run in at slow speed 	
Load limiting devices for: <ul style="list-style-type: none"> Proper operation Accuracy of settings 	
Hydraulic and pneumatic hoses	
Hooks and latches for: <ul style="list-style-type: none"> Deformation Chemical damage Cracks Wear 	
Electrical equipment for: <ul style="list-style-type: none"> Malfunctioning Deterioration Dirt Moisture 	
Braces supporting towers Anchor bolt base connections for: <ul style="list-style-type: none"> Looseness Loss of preload 	At least once a month for cranes in regular service Before returning to service for cranes idle for more than a month

NEW SECTION

WAC 296-831-43015 Perform periodic inspections on tower, portal and pedestal cranes.

You must:

- Make sure a designated person conducts periodic inspections of cranes in or available for use as follows:
 - Perform inspections according to Table 400-3, Periodic Inspection Checklist, and include all items in Table 400-2, Frequent Inspection Checklist.
 - Make sure a designated person conducts a more detailed inspection if hazardous conditions are found during the inspection.
 - Make sure the crane is not used until any hazardous conditions found during the inspection have been corrected.

**Table 400-3
Periodic Inspection Checklist for Tower, Portal and Pedestal Cranes**

Items to Check	How Often
Deformed, cracked, or corroded members	Light service: Once per year Normal service: Once or twice per year Heavy service: Once per quarter
Bolts and rivets for tightness	
Sheaves and drums for: <ul style="list-style-type: none"> Cracks Wear 	
Parts such as pins, bearings, shafts, gears, rollers, and locking devices for: <ul style="list-style-type: none"> Wear Cracks Distortion 	
Brake and clutch systems for: <ul style="list-style-type: none"> Wear 	
Indicators (load, wind, boom angle, etc) for: <ul style="list-style-type: none"> Accuracy 	
Power plants: <ul style="list-style-type: none"> Proper performance Compliance with safety requirements 	
Electrical apparatus for: <ul style="list-style-type: none"> Signs of deterioration in controllers, master switches, contacts, limiting devices and controls 	
Travel mechanisms for: <ul style="list-style-type: none"> Malfunction Excessive wear Damage 	
Crane Hooks Hydraulic and pneumatic pumps, motors, valves, hoses, fittings, and tubing for: <ul style="list-style-type: none"> Excessive wear Damage 	
Traction bolts used in connections and at the slewing bearing for: <ul style="list-style-type: none"> Proper tension (torque) 	

PROPOSED

PROPOSED

Items to Check	How Often
<ul style="list-style-type: none"> • Deformation or other damage 	
Sheaves for: <ul style="list-style-type: none"> • Cracks in the flanges and spokes 	

NEW SECTION

WAC 296-831-43020 Inspect wire rope for tower, portal and pedestal cranes regularly.

You must:

- Make sure wire rope is inspected according to Table 400-4, Wire Rope Inspection Checklist.
- Do ONE of the following if the inspection shows damaged rope:
 - Remove rope from service;

OR

- Perform a more detailed inspection as described in Table 400-3, Wire Rope Inspection Checklist.
- Keep a dated report of rope condition on file.

Table 400-4

Wire Rope Inspection Checklist for Tower, Portal and Pedestal Cranes

Check These Ropes:	This Often:
Running ropes for: <ul style="list-style-type: none"> • Distortion such as kinking, crushing, unstranding, birdcaging, main strand displacement, or core protrusion • Loss of rope diameter in a short rope length • Unevenness of outer strands • General corrosion • Broken or cut strands • Number, distribution, and type of visible broken wires • Core failure in rotation resistant ropes 	At least once a month for cranes in use Before use for cranes that have been idle for more than one month
The entire length of wire rope for: <ul style="list-style-type: none"> • Distortion of the rope, such as kinking, crushing, unstranding, birdcaging, main strand displacement, or core protrusion 	At least once a year, more frequently if a qualified person determines it is needed

Check These Ropes:	This Often:
<ul style="list-style-type: none"> • General corrosion • Broken or cut strands • Number, distribution, and type of visible broken wires • Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires • Severely corroded or broken wires at end connections 	

NEW SECTION

WAC 296-831-43025 Replace wire rope for tower, portal and pedestal cranes as required.

Maintenance:

You must:

- Replace or resocket wire rope when end connections develop more than two broken wires adjacent to a socketed end connection.
 - Resocket an end connection only if the remaining rope will be long enough for full operation.
- Make sure wire rope is replaced when it shows ANY of the following:
 - One outer wire broken at the contact point with the core of the rope, which protrudes or loops out from the rope structure.
 - Wear of one-third the original diameter of outside individual wires.
 - Kinking, crushing, birdcaging, or any other damage resulting in distortion of rope structure.
 - Evidence of heat damage from any cause.
 - **Running ropes with:**
 - Six randomly distributed broken wires in one lay.
 - Three broken wires in one strand in one lay.
 - **Rotation resistant rope with:**
 - Four randomly distributed broken wires in one lay.
 - Two broken wires in one strand in one lay.
 - Any ropes if the reduction from nominal diameter is greater than the manufacturer's recommendation.
 - If you have no manufacturer's recommendations, see Table 400-5, Wire Rope Reduction from Nominal Diameter.
- Have a qualified person determine when to replace wire rope:
 - Immediately.
 - At the end of the work shift.
 - Before the next use of the crane.
- Make sure replacement wire rope and connections are the same size, type, grade, construction and strength unless specified otherwise by either:
 - The rope, crane, or hoist manufacturer;

- OR
 – A qualified person.

Table 400-5
Allowed Reduction from Nominal Diameter

Nominal Diameter	Maximum Allowable Reduction From Rope Diameter
Up to 5/16 in. (8 mm)	1/64 in. (0.4 mm)
Over 5/16 in. to 1/2 in. (13 mm)	1/32 in. (0.8 mm)
Over 1/2 in. to 3/4 in. (19 mm)	3/64 in. (1.2 mm)
Over 3/4 in. to 1 1/8 in. (29 mm)	1/16 in. (1.6 mm)
Over 1 1/8 in. to 1 1/2 in. (38 mm)	3/32 in. (2.4 mm)

NEW SECTION

WAC 296-831-43030 Maintain and store wire rope for tower, portal and pedestal cranes safely.

You must:

- Unreel or uncoil wire rope as recommended by the manufacturer. Avoid twisting or kinking the rope.
- Place seizings on each side of the area to be cut to prevent wire rope strands from unraveling before you cut the rope.
- Avoid dragging the rope in dirt or around objects that can scrape, nick, crush, or make sharp bends in the rope.
- Make sure any lubricant used:
 - Is compatible with the original lubricant.
 - Does not hinder the visual inspection of the rope.

Note: Wire rope should be maintained in a well-lubricated condition, giving special attention to sections that are hidden.

NEW SECTION

WAC 296-831-43035 Refuel tower, portal and pedestal cranes properly.

You must:

- Refuel cranes as follows:
 - Turn off all engines.
 - Prohibit smoking or open flames in the refueling area.
 - Do not allow a portable gasoline container to be used unless it is an approved safety-type can with an automatic closing cap and flame arrester.

NEW SECTION

WAC 296-831-43040 Establish and follow safe maintenance and repair procedures for tower, portal and pedestal cranes.

You must:

(1) Make sure only designated persons perform maintenance tasks including adjusting, repairing, and replacing crane parts.

(2) Make sure all replacement parts are at least equal to the original manufacturer's specifications.

(3) Make sure all of the following are done before making major adjustments or repairs:

- Place controllers in the "OFF" position, except for test purposes.

- Make sure designated persons appropriately place "Warning" or "Out of Order" signs.

- Provide rail stops or other means of preventing interference if other cranes are operating on the same runway.

- If rail stops are not available or practical, provide a signal person at a visual vantage point, to observe the approach of other cranes and warn other operators.

Reference: See additional requirements in chapter 296-24 WAC, Part A-4, Controlling hazardous energy, when performing maintenance, adjustments or repairs.

You must:

(4) Do the following before restoring cranes to service:

- Reinstall all guards.
- Reactivate all safety devices.
- Remove trapped air from hydraulic systems.
- Remove replaced parts, loose material, and maintenance equipment.
- Have designated personnel remove "Warning" or "Out of Order" signs.

(5) Keep records of any alterations or modifications made on cranes, unless the crane manufacturer does the work. These records must include:

- Calculations and drawings of the alteration/modification, signed by a qualified person.
- Verification that the crane meets the applicable requirements of this rule.
- Records of tests performed according to WAC 296-831-42050 and 296-831-42055.

NEW SECTION

WAC 296-831-43045 Repair or replace hooks on tower, portal and pedestal cranes as required.

You must:

- Make sure a qualified person determines if a damaged hook needs to be replaced or can be repaired.

- Repair or replace a hook when it shows:
 - Cracks, nicks or gouges.
 - Wear of more than ten percent of the original sectional dimension, or as recommended by the manufacturer.

- A bend or twist exceeding ten degrees from the plane of the unbent hook.

- An increase in the throat opening of more than fifteen percent of the original sectional dimension, or as recommended by the manufacturer.

- Follow these requirements when repairing a hook:
 - Only a designated person can repair cracks, nicks and gouges.

- Grind longitudinally.
- Follow the contour of the hook.

PROPOSED

– The dimension of the hook must NOT be reduced more than ten percent of its original value, unless otherwise recommended by the manufacturer.

NEW SECTION

WAC 296-831-43050 Perform operational tests on tower, portal and pedestal cranes.

Testing:

You must:

- Make sure all operational tests are performed under the direction of a qualified person.
- Make sure all cranes are tested after being altered or modified.
- Make sure newly erected cranes and cranes that have been repaired are tested as follows:
 - Test the functional motion of the crane first without a load, then at the rated load. Tests must include:
 - Load hoisting and lowering.
 - Boom hoisting and lowering, or traveling the trolley.
 - Swing motion.
 - Brakes and clutches.
 - Limit, locking and safety devices.
 - Test the trip setting of hoist limit devices by:
 - Using an empty hook.
 - Making a series of runs at increasing hook speeds, up to the maximum speed.
 - Locating the limit device's actuator so under all conditions, it will trip in time to prevent contact of the lower load block with the upper load block or boom point sheaves.

Note: Testing on repaired cranes may be limited to the functions affected by the repair, as determined by a qualified person.

NEW SECTION

WAC 296-831-43055 Test supports on newly installed tower, portal and pedestal cranes.

You must:

- Make sure the supports on newly installed cranes are load tested as follows:
 - Use a test load of one hundred ten percent of rated load at the radius producing the greatest load movement.
 - For stationary tower or pedestal cranes, rotate the load slowly to the positions that cause maximum loading of each foundation and hold for at least fifteen minutes.
 - For cranes designed to travel with a load, slowly travel the loaded crane the length of the runway with the crane oriented to cause the maximum wheel loadings on one rail, then return with the crane oriented to cause the maximum wheel loadings on the other rail.
 - For traveling cranes not designed to travel with a load, test as a stationary crane.

NEW SECTION

WAC 296-831-43060 Perform necessary load tests on repaired, modified or altered tower, portal and pedestal cranes.

You must:

- Make sure any crane that has been altered or modified is load tested under the direction of a qualified person.
- Make sure a qualified person determines if load testing is needed on any crane after repair and that any necessary load tests are completed.

Note: The qualified person can limit the items checked during a load test to those functions that have been affected by the alteration, repair, or modification.

You must:

- Make sure all load testing is conducted as follows:
 - Use a weight that is one hundred twenty-five percent of the rated load for the crane or hoist unless the manufacturer makes another weight recommendation.
 - Choose the radii and boom angles that place maximum loading on the relevant crane parts.

NEW SECTION

WAC 296-831-440 Operating tower, portal and pedestal cranes.

Your responsibility:

To make sure tower, portal and pedestal cranes are operated safely.

You must:

- Allow tower, portal and pedestal cranes to be operated only by specific people
- WAC 296-831-44005.
- Attach the load to the tower, portal or pedestal crane correctly
- WAC 296-831-44010.
- Operate tower, portal and pedestal cranes safely
- WAC 296-831-44015.

IMPORTANT:

If you operate your equipment near power lines, you will need to follow the requirements in chapter 296-24 WAC, Part L.

NEW SECTION

WAC 296-831-44005 Allow tower, portal and pedestal cranes to be operated only by specific people.

You must:

- Make sure only these people operate a crane:
 - Designated persons who have successfully passed a practical operating exam for the specific type of equipment they will operate.
 - Trainees, under the direct supervision of a designated person.
 - Crane inspectors.
 - Maintenance and test personnel, with the knowledge of the operator or other designated person.

NEW SECTION

WAC 296-831-44010 Attach the load to the tower, portal or pedestal crane correctly.

You must:

- (1) Make sure the load is within the specifications of the load-rating chart, except when load testing.

(2) Make sure the load lines and attachments meet the following:

- Keep the hoist rope from kinking or wrapping around the load.
- Keep multiple part lines from twisting around each other.
- Bring the hook over the load in a way that prevents swinging.
- Attach the load to the hook with slings or other approved devices.
- Secure the load and balance it before lifting more than a few inches.
- Properly seat the rope on the drum and in the sheaves, if there is a slack rope condition.

(3) Make sure the lift and swing path is clear of obstruction.

(4) Make sure tag or restraint lines are used when swinging of the load is hazardous.

NEW SECTION

WAC 296-831-44015 Operate tower, portal and pedestal cranes safely.

You must:

(1) Make sure the operator consults with the supervisor any time there are safety questions about handling any load.

- Make sure the operator notifies the supervisor and the next operator of any uncorrected defect in the crane if adjustments or repairs are necessary.

(2) Make sure the operator does not engage in any practice that diverts their attention while actually engaged in operating equipment.

(3) Make sure the operator puts all controls in the "OFF" or "neutral" position and makes sure all persons are in the clear before starting the equipment or closing the power disconnecting means.

(4) Make sure the operator tests all controls at the start of a new shift, and makes sure needed adjustments and repairs are made.

(5) Make sure the operator tests the brakes every time a load approaching the rated load is handled, by raising the load a few inches and then applying the brakes.

(6) Make sure the operator avoids sudden starts and stops when swinging the boom, moving the load up or down, or traveling the crane.

- Make sure the operator rotates the crane at a speed that does not allow the load to swing out beyond a controllable radius.

(7) Make sure the operator obeys any stop signal given by any person.

(8) Make sure the operator activates the drum holding device, if it is not automatic, if the load will stay suspended for a considerable length of time.

(9) Make sure the operator does the following before leaving the crane unattended:

- Sets the load down.
- Sets the trolley brakes and other locking devices.
- Brings the hook to the highest position.

- Disconnects power or disengages the master clutch, as applicable.

- Places controllers in the "OFF" position.
- Secures the crane against inadvertent travel.
- Stops the engine, when provided.

Note: When the crane operation is frequently interrupted during a shift, the engine may be left running while the operator is on the superstructure.

- Leaves the superstructure free to weathervane, unless otherwise recommended by the manufacturer or qualified person.

- Restrains the crane from traveling when leaving the crane overnight.

(10) Make sure the operator does the following whenever power is lost during operation:

- Immediately sets all brakes and locking devices, as applicable.

- Moves clutch or other power controllers to the "OFF" or "neutral" position.

- Sets down any suspended load under brake control, if practical.

(11) Make sure the operator restrains the crane when the wind alarm has sounded.

(12) Make sure the operator does NOT leave the controls when a load is suspended.

Exemption: The operator may leave the controls, if the load is suspended for a longer time than usual, if these precautions are taken:

- The designated person and the operator have established the requirements for restraining the load, swing, and travel functions.
- Barricades or other precautions have been provided.

(13) Make sure the operator does NOT lower a load below the point where only two wraps of rope remain on the drum.

(14) Make sure the operator does NOT operate the crane when the wind speed has exceeded the maximum velocity recommended by the manufacturer.

NEW SECTION

WAC 296-831-500 Derricks.

Introduction:

WAC 296-831-500 through 296-831-540 apply to the following types of derricks:

- Guy.
- Stiffleg.
- Basket.
- Breast.
- Gin pole.
- Chicago boom.
- Shearleg.
- A-frame.

Derricks can be either temporarily or permanently installed. They are used for lifting, lowering, and horizontal movement of freely suspended unguided loads.

NEW SECTION

WAC 296-831-510 Design and installation requirements for derricks.

Your responsibility:

To make sure your derricks are safe for operation.

You must:

Make sure equipment meets the appropriate design and construction requirements of this rule

WAC 296-831-51005.

Have load-rating charts for derricks available

WAC 296-831-51010.

Have radius or boom angle indicators on derricks

WAC 296-831-51015.

Mark operating controls on derricks

WAC 296-831-51020.

Provide fire extinguishers for derricks

WAC 296-831-51025.

Store personal and work materials properly on derricks

WAC 296-831-51030.

NEW SECTION

WAC 296-831-51005 Make sure equipment meets the appropriate design and construction requirements of this rule.

You must:

- Make sure derricks constructed and installed on or after May 1, 2004, meet the design specifications of the ASME B30.6 - 1995, including addenda A (1998), B (1999) and C (2001).

- Make sure derricks constructed before March 1, 2004, but on or after May 7, 1973, meet the design specifications of ASME B30.6 - 1969.

NEW SECTION

WAC 296-831-51010 Have load-rating charts for derricks available.

You must:

- Make sure durable, legible load-rating charts are provided for **permanently installed** derricks and are securely attached where workers responsible for the safe operation of the derrick can see them.

- Make sure legible load-rating charts are provided for derricks that are not permanently installed and are located at either the derrick or the job-site office.

- Make sure load rating charts include:

- Manufacturer's approved load ratings at corresponding ranges of boom angle or operating radii.

- Specific lengths of components the load ratings are based on.

- Required parts for hoist reeving.

Note: The size and construction of rope needs to be shown on either the rating chart or in the operating manual.

NEW SECTION

WAC 296-831-51015 Have radius or boom angle indicators on derricks.

You must:

- Make sure an accurate radius or boom angle indicator, readable from the operating position, is installed on derricks having a movable working boom.

NEW SECTION

WAC 296-831-51020 Mark operating controls on derricks.

You must:

- Make sure that:

- Operating controls are marked;

OR

- An explanation of the controls is posted in full view of the operator.

NEW SECTION

WAC 296-831-51025 Provide fire extinguishers for derricks.

You must:

- Make sure a fire extinguisher, with a minimum rating of 10 BC, is kept in the crane cab or at the machinery housing.

Reference: See additional requirements in WAC 296-800-300, Portable fire extinguishers.

NEW SECTION

WAC 296-831-51030 Store personal and work materials properly on derricks.

You must:

- Make sure clothing, personal belongings, tools, and other necessary articles are stored so they do not interfere with derrick access or operation.

NEW SECTION

WAC 296-831-520 Hoisting equipment.

Your responsibility:

To make sure hoisting equipment on derricks is used correctly.

You must:

Use and maintain sheaves on derricks properly

WAC 296-831-52005.

Follow these requirements when using hoisting ropes on derricks

WAC 296-831-52010.

Use reeving accessories on derricks correctly

WAC 296-831-52015.

Use hooks on derricks correctly

WAC 296-831-52020.

NEW SECTION

WAC 296-831-52005 Use and maintain sheaves on derricks properly.

You must:

- Make sure sheaves are smooth and free from surface defects that could cause wire rope damage.

- Make sure guards are in place to:

- Guide the rope back into the sheave groove, when using ropes that can be momentarily unloaded.

– Prevent ropes from becoming fouled when the block is lying on the ground with loose ropes.

– Do not use rotation resistant rope for boom hoist reeving.

NEW SECTION

WAC 296-831-52010 Follow these requirements when using hoisting ropes on derricks.

You must:

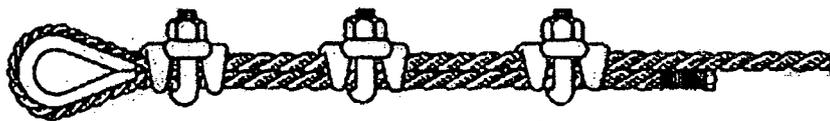
- Make sure wire rope is used as follows:
 - Use only wire ropes that are the size, grade and construction for the maximum load to be lifted.
 - Make sure there is enough rope attached so that at least two wraps of rope are on the drum for the entire range of movement.

NEW SECTION

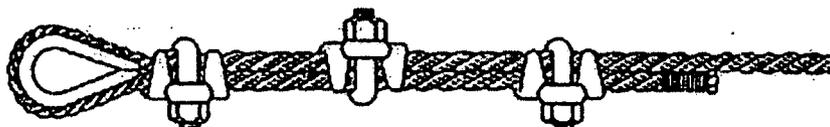
WAC 296-831-52015 Use reeving accessories on derricks correctly.

You must:

- Use reeving accessories correctly, as follows:
 - Attach U-bolts on the dead or short end of the wire rope, with the live end resting in the saddle (see Illustration 500-1).



Right Way For Maximum Rope Strength



Wrong Way: Clips Straggered



Wrong Way: Clips Reversed

You must:

- Use only drop-forged steel wire rope clips.
- Follow the clip manufacturer's recommendation for spacing, number of clips, and tightening evenly to the recommended torque values.
- Retighten all nuts on clip bolts after initial load is applied to newly installed wire rope.

– Make sure swaged, compressed or wedged socket fittings are applied as recommended by the wire rope, crane, or fitting manufacturer.

– Make sure wire rope clips used with wedged sockets are attached only to the unloaded dead end.

Note: Piggy-back style wire rope clips may be used if manufacturer's directions are followed.



Loop Back Method



Extra Piece of Same Size Rope is Clipped to Main Rope

PROPOSED

PROPOSED

NEW SECTION

WAC 296-831-52020 Use hooks on derricks correctly.

You must:

- Make sure hooks:
 - Are either latched, with the latch bridging the throat opening of the hook, or are moused.
 - Meet the manufacturer's recommendations.
 - Are not overloaded.

NEW SECTION

WAC 296-831-530 Inspections, maintenance and testing of derricks.

Your responsibility:

To keep derricks in safe operating condition by performing regular inspections, maintenance, and testing.

You must:

Inspections:

- Perform initial inspections on derricks
WAC 296-831-53005.
- Perform frequent inspections on derricks
WAC 296-831-53010.
- Perform periodic inspections on derricks
WAC 296-831-53015.
- Inspect wire rope for derricks regularly
WAC 296-831-53020.

Maintenance:

- Replace wire rope for derricks as required
WAC 296-831-53025.
- Maintain and store wire rope for derricks properly
WAC 296-831-53030.
- Refuel derricks properly
WAC 296-831-53035.

Establish and follow safe maintenance and repair procedures for derricks

- WAC 296-831-53040.
- Repair or replace hooks on derricks as required
WAC 296-831-53045.

Testing:

- Perform operational tests on derricks
WAC 296-831-53050.
- Perform load tests on derricks
WAC 296-831-53055.

NEW SECTION

WAC 296-831-53005 Perform initial inspections on derricks.

Inspection:

You must:

- Make sure a designated person inspects a derrick before placing in or returning to service whenever equipment has been:
 - Newly installed.
 - Altered.
 - Repaired.
 - Modified.

– Reinstalled.

– Idle (whether on standby or in storage) for more than six months.

• Make sure this inspection includes all items in Table 500-1, Frequent Inspection Checklist, Table 500-2, Periodic Inspection Checklist, and Table 500-3, Wire Rope Inspection.

NEW SECTION

WAC 296-831-53010 Perform frequent inspections on derricks.

You must:

• Make sure a designated person conducts frequent inspections on derricks as follows:

- Perform inspections according to Table 500-1, Frequent Inspection Checklist.
- Examine any problems observed during the operation of the derrick.
- Carefully examine any identified deficiencies, and determine whether they constitute a safety hazard.
- Make sure the derrick is not used until any hazardous conditions found during the inspection have been corrected.

**Table 500-1
Frequent Inspection Checklist for Derricks**

Check These Items	This Often
All control mechanisms for: <ul style="list-style-type: none"> • Adjustment • Wear • Lubrication 	Daily, for derricks in use At least twice a year for standby derricks not in actual use
All chords and lacing	
Tension in guys	
Deterioration or leakage in air or hydraulic systems	Before use, for derricks out of service more than one month
Hoist brakes, clutches, and operating levers for proper functioning before beginning operations	At least once a month for derricks in use Before use, for derricks out of service more than one month At least twice a year for standby derricks not in actual use
Plumb of the mast	
Derrick hooks for deformations or cracks	
Rope reeving for noncompliance with derrick manufacturer's recommendations	
Electrical equipment for malfunctioning, signs of excessive deterioration, dirt, and moisture accumulation	

NEW SECTION

WAC 296-831-53015 Perform periodic inspections on derricks.

You must:

- Make sure a designated person conducts periodic inspections on derricks as follows:
 - Perform inspections according to Table 500-2, Periodic Inspection Checklist, and include all items in Table 500-1, Frequent Inspection Checklist.
 - Carefully examine any identified deficiencies to determine whether they constitute a safety hazard.
- Make sure the derrick is not used until any hazardous conditions found during the inspection have been corrected.
- Keep dated inspection records of all critical items such as hoisting machinery, sheaves, hooks, chains, and other lifting devices.

Table 500-2

Periodic Inspection Checklist for Derricks

Check These Items	This Often
Structural members for: <ul style="list-style-type: none"> • Deformations • Cracks • Corrosion 	At least once a year OR As recommended by the manufacturer
Bolts or rivets for tightness	OR
Parts such as pins, bearings, shafts, gears, sheaves, drums, rollers, and locking and clamping devices, for: <ul style="list-style-type: none"> • Wear • Cracks • Distortion 	More frequently, if any of the following conditions call for it: Activity Severity of service Environmental conditions
Gudgeon pin, each time the derrick is erected, for: <ul style="list-style-type: none"> • Wear • Cracks • Distortion 	
Power plants for: <ul style="list-style-type: none"> • Proper performance • Compliance with applicable safety requirements 	
Hooks Note: Magnetic particle or other suitable crack detecting inspection should be performed at least once each year	

Check These Items	This Often
Foundation or supports for continued ability to sustain the imposed loads	

NEW SECTION

WAC 296-831-53020 Inspect wire rope for derricks regularly.

You must:

- Make sure wire rope is inspected according to Table 500-3, Wire Rope Inspection Checklist.
- Do ONE of the following if the inspection shows damaged rope:
 - Remove rope from service;
- OR**
 - Perform a more detailed inspection as described in Table 500-3, Wire Rope Inspection Checklist.
- Keep current dated and signed reports of rope condition on file and readily available.

Table 500-3

Wire Rope Inspection Checklist for Derricks

Check These Ropes	How Often
Check running ropes for: <ul style="list-style-type: none"> • Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires • A number of broken outside wires and the degree of distribution or concentration of such broken wires • Worn outside wires • Corroded or broken wires at end connections • Corroded, cracked, bent, worn, or improperly applied end connections • Severe kinking, crushing, cutting, or unstranding 	At least once a month for derricks in use Before use for derricks that have been idle for more than one month
Inspect the entire length of wire rope for:	

PROPOSED

PROPOSED

Check These Ropes	How Often
<ul style="list-style-type: none"> • Distortion of the wire rope, such as kinking, crushing, unstranding, birdcaging, main strand displacement, or core protrusion • General corrosion • Broken or cut strands • Number, distribution, and type of visible broken wires <p>Reference: See WAC 296-831-52030, Replace wire rope as required, for removal criteria</p> <ul style="list-style-type: none"> • Reduction of wire rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires • Severely corroded or broken wires at end connections • Severely corroded, cracked, bent, worn, or improperly applied end connections 	<p>At least once a year for derricks in use</p> <p>Before use for derricks that have been idle for more than one month</p> <p>Note: Wire rope inspections do not need to be at equal calendar intervals, and should be more frequent as the rope gets older</p>

NEW SECTION

WAC 296-831-53025 Replace wire rope for derricks as required.

Maintenance:

You must:

- Make sure wire rope is replaced when it shows ANY of the following:
 - One outer wire broken at the contact point that protrudes or loops out from the rope structure.
 - Wear of one-third the original diameter of outside individual wires.
 - Kinking, crushing, birdcaging, or any other damage resulting in distortion of rope structure.
 - Evidence of heat damage from any cause.
- **Running ropes with:**
 - Six randomly distributed broken wires in one lay.
 - Three broken wires in one strand in one lay.
- **Standing ropes with:**

- More than two broken wires in one lay in sections beyond end connections.
 - More than one broken wire at an end connection.
 - Any ropes if the reduction from nominal diameter is greater than the manufacturer's recommendation.
 - If manufacturer's recommendations are not available, refer to Table 500-4, Allowed Nominal Reduction of Wire Rope.
 - Have a qualified person determine when wire rope should be replaced:
 - Immediately.
 - At the end of the work shift.
 - Before the next use of the derrick.
 - Make sure replacement wire rope and connections are the same size, type, grade, construction, and strength unless specified otherwise by either:
 - The rope, derrick, or hoist manufacturer;
- OR
- A qualified person.

**Table 500-4
Allowed Reduction from Nominal Diameter**

Nominal Diameter	Maximum Allowable Reduction From Rope Diameter
Up to 5/16 in. (8 mm)	1/64 in. (0.4 mm)
Over 5/16 in. to 1/2 in. (13 mm)	1/32 in. (0.8 mm)
Over 1/2 in. to 3/4 in. (19 mm)	3/64 in. (1.2 mm)
Over 3/4 in. to 1 1/8 in. (29 mm)	1/16 in. (1.6 mm)
Over 1 1/8 in. to 1 1/2 in. (38 mm)	3/32 in. (2.4 mm)

NEW SECTION

WAC 296-831-53030 Maintain and store wire rope for derricks safely.

You must:

- Unreel or uncoil wire rope as recommended by the manufacturer. Avoid twisting or kinking the rope.
- Take the following precautions to prevent wire rope strands from unraveling before you cut the rope:
 - For preformed rope, place one seizing on each side of the cut.
 - For nonpreformed rope seven-eighths inch in diameter or smaller, place two seizings on each side of the cut.
 - For nonpreformed rope one inch in diameter or larger, place three seizings on each side of the cut.
- Avoid dragging the rope in dirt or around objects that can scrape, nick, crush, or make sharp bends in the rope.
- Make sure any lubricant used:
 - Is compatible with the original lubricant.
 - Does not hinder the visual inspection of the rope.

Note: Wire rope should be maintained in a well-lubricated condition, giving special attention to sections that are hidden.

NEW SECTION**WAC 296-831-53035 Refuel derricks properly.****You must:**

- Refuel equipment as follows:
 - Make sure the engine is turned off before refueling.
 - Prohibit smoking or open flames in the refueling area.
 - Do not allow a portable container to be used unless it is an approved safety-type can with an automatic closing cap and flame arrester.

NEW SECTION**WAC 296-831-53040 Establish and follow safe maintenance and repair procedures for derricks.****You must:**

- (1) Make sure all replacement parts are at least equal to the original manufacturer's specifications.
- (2) Do ALL of the following before performing maintenance, adjustment, or repairs on a derrick or hoist:
 - Arrange the derrick so it will cause the least interference with other equipment and operations.
 - Engage all hoist drum dogs.
 - Put "Warning" or "Out of Order" signs on the derrick and hoist.
 - Lower and support or tie off the boom if it is being repaired.
 - Establish a communications system between the operator and the person in charge of the operations.

Reference: See additional requirements in chapter 296-24 WAC, Part A-4, Controlling hazardous energy, when performing maintenance, adjustments or repairs.

You must:

- (3) Do the following before restoring the equipment to service:
 - Reinstall all guards.
 - Reactivate all safety devices.
 - Remove maintenance equipment.

NEW SECTION**WAC 296-831-53045 Repair or replace hooks on derricks as required.****You must:**

- Make sure a qualified person determines if a damaged hook needs to be replaced or can be repaired.
- Repair or replace a hook when it shows:
 - Cracks, nicks or gouges.
 - Wear of more than ten percent of the original sectional dimension, or as recommended by the manufacturer.
 - A bend or twist exceeding ten degrees from the plane of the unbent hook.
 - An increase in the throat opening of more than fifteen percent of the original sectional dimension, or as recommended by the manufacturer.
- Follow these requirements when repairing a hook:
 - Only a designated person can repair cracks, nicks and gouges.
 - Grind longitudinally.
 - Follow the contour of the hook.

- The dimension of the hook must NOT be reduced more than ten percent of its original value, unless otherwise recommended by the manufacturer.

NEW SECTION**WAC 296-831-53050 Perform operational tests on derricks.****Testing:****You must:**

- Make sure all operational tests are performed under the direction of a designated person.
- Make sure new, altered, or reinstalled derricks are tested so they meet the requirements of this chapter. Operational testing must include:
 - Load hoisting and lowering.
 - Boom up and down.
 - Swing.
 - Operation of hoist clutches and brakes.
- Make sure anchorages are approved by a designated person. Rock or hairpin anchorages may require special testing.

NEW SECTION**WAC 296-831-53055 Perform load tests on derricks.****You must:**

- Have a designated person load test all:
 - New and reinstalled derricks.
 - Repaired, altered or modified derricks unless a qualified person determines it is not needed.
- Make sure all load testing is conducted as follows:
 - Use a test load that is at least one hundred percent of the rated load, but not more than one hundred ten percent, unless otherwise recommended by the manufacturer.
 - Hoist the test load a few inches and hold to verify that the load is supported by the derrick and held by the hoist brake(s).
 - Swing the derrick, if applicable, the full range of its swing, at the maximum allowable working radius for the test load.
 - Boom the derrick up and down within the allowable working radius for the test load.
 - Lower the test load, then stop and hold the load with the brake(s).
 - Prepare and keep a written test report on file.

NEW SECTION**WAC 296-831-540 Operating derricks.****Your responsibility:**

To make sure derricks are operated safely.

You must:

- Assign a designated person to direct operations
WAC 296-831-54005.
- Allow derricks to be operated only by specific people
WAC 296-831-54010.
- Attach the load to the derrick correctly
WAC 296-831-54015.

Operate derricks safely
WAC 296-831-54020.

IMPORTANT:

If you operate your equipment near power lines, you will need to follow the requirements in chapter 296-24 WAC, Part L.

NEW SECTION

WAC 296-831-54005 Assign a designated person to direct operations.

You must:

• Assign a designated person to direct derrick operations who has either:

– Passed a practical operating examination;

OR

– Provides satisfactory evidence of qualifications and experience.

NEW SECTION

WAC 296-831-54010 Allow derricks to be operated only by specific people.

You must:

• Make sure only these people operate a derrick:

– Designated persons who have successfully passed a practical operating exam for the specific type of equipment they will operate.

– Trainees under the direct supervision of a designated person.

– Maintenance and test personnel, with the knowledge of the operator or other designated person.

NEW SECTION

WAC 296-831-54015 Attach the load to the derrick correctly. You must:

(1) Make sure the load is within acceptable weight:

– Stay within the specifications of the load-rating chart, except when load testing.

– Determine the weight of any load approaching the derrick's maximum load rating to within +/- ten percent, before it is lifted.

(2) Make sure the load lines and attachments meet the following:

– Keep the hoist rope from kinking or wrapping around the load.

– Keep multiple part lines from twisting around each other.

– Attach the load to the hook with slings or other approved devices.

– Bring the hook over the load in a way that prevents swinging.

– Secure the load and balance it before lifting more than a few inches.

– Properly seat the rope on the drum and in the sheaves, if there is a slack rope condition.

NEW SECTION

WAC 296-831-54020 Operate derricks safely.

You must:

(1) Make sure the operator consults with the supervisor any time there are safety questions about handling any load.

(2) Make sure the operator tests the brakes every time a load approaching the rated load is handled, by raising the load a few inches and then applying the brakes.

(3) Make sure the operator is informed when ropes are handled on a winch head.

• Make sure the operator stays within reach of the power unit control lever while a winch head is being used.

(4) Make sure the operator avoids sudden starts and stops when rotating the derrick.

• Make sure the operator rotates the derrick at a speed that does not allow the load to swing out beyond a controllable radius.

(5) Make sure the operator engages positive holding means, such as dogs or pawls, when securing the boom.

• Make sure the operator uses means other than the brake alone, such as a dog, or pawl and ratchet, when the load must be suspended for a considerable length of time.

(6) Make sure the operator does either of the following when the boom is not in use:

• Lays the boom down and secures it to a stationary member, as close to under the head as possible;

OR

• Hoists the boom to a vertical position and secures it to the mast.

(7) Make sure the operator does NOT perform side loading except when specifically authorized by a qualified person who has determined that the various structural components will not be overstressed.

(8) Make sure the operator does NOT allow anyone to ride on the load or hook.

(9) Make sure the operator does NOT lower the boom or the load to less than two full wraps of rope on the drums.

(10) Make sure the operator does NOT leave the control position while a load is suspended.

NEW SECTION

WAC 296-831-900 Definitions.

A-frame derrick

A derrick with:

• Two upright members that are apart from each other at the lower ends and joined at the top.

• The boom hinged from a cross member that is between the bottom ends of the two upright members.

• The boom point fastened to the point where the side members join.

• The side members braced or guyed at the point where they join.

ANSI

The American National Standards Institute. Commonly used to refer to national consensus standards published by this organization.

Anti two-block device

A device that disengages all crane functions that can cause two-blocking.

ASME

The American Society of Mechanical Engineers. Used to refer to national consensus standards published by this organization, as in "see ASME B30.5."

Automatic crane

A crane that operates through a preset cycle or cycles when activated.

Ballast

Weight added to the crane to provide stability for lifting working loads.

Basket derrick

A derrick without a boom, with:

- The base supported by ropes attached to corner posts or other parts.

- The base at a lower elevation than the supports.

Boom

A member used to support the hoisting equipment. A boom is hinged to a mast or other structure, and has its outer end supported by ropes, chains, rods, or hydraulic cylinders.

Boom angle

The angle above or below horizontal of the longitudinal axis of the boom base section.

Boom angle indicator

A device that measures the angle of the boom to the horizontal.

Boom harness

The block and sheave arrangement on the boom point, where the topping lift cable is reeved for changing the boom angle.

Boom hoist

A hoist drum and rope reeving system used to raise and lower the boom.

Boom point

The outward end of the top section of the boom.

Boom stop

A device that limits the angle of the boom at its highest position.

Breast derrick

A derrick without a boom that has two side members, farther apart at the base than at the top, tied together at the top and bottom by rigid members. The load is lifted and lowered by ropes through a sheave or block secured to the top of the crosspiece.

Bridge

The part of a crane that carries the trolley or trollies. This includes the girders, trucks, end ties, footwalks, and drive mechanism.

Bridge travel

The crane movement in a direction parallel to the crane runway.

Bumper

An energy absorbing device for reducing impact when a moving crane or trolley reaches the end of its permitted travel; or when two moving cranes or trollies come in contact.

Cab

The operator's compartment on a crane or derrick.

Cab-operated crane

A crane controlled by an operator in a cab located on the bridge or trolley.

Chicago boom derrick

A boom attached to a structure, with an outside upright member of the hoist structure serving as the mast, and the boom mounted in a pivoting seat secured to the upright.

Conductors, bridge

The electrical conductors located along the bridge structure of a crane to provide power to the trolley.

Conductors, runway

The electrical conductors located along a crane runway to provide power to the crane.

Counterweight

A weight added to the machine to provide stability for lifting working loads.

Crane

A machine for lifting and lowering a load and moving it horizontally, with the hoisting mechanism an integral part of the machine.

Derrick

A piece of equipment used with a hoisting mechanism and operating ropes, with or without a boom, that has a mast or equivalent part held at the end by guys or braces.

Designated person

A person who has been selected or assigned by the employer as being capable of performing specific duties.

Drum

The cylindrical part that the ropes are wound around for raising or lowering the load.

Eye

A loop formed at the end of a rope by securing the dead end to the live end at the base of the loop.

Floor-operated crane

A crane that is controlled by an operator on the floor or an independent platform, using a pendant or nonconductive rope.

Footwalk

The walkway attached to the bridge or trolley for access purposes.

Gantry

A movable structural frame that is able to support a crane and its loads.

Gin pole derrick

A boom, without a mast, with guys arranged from its top to let the mast lean in one or more directions.

Guy

A rope used to steady or secure the mast or other member in a desired position.

Guy derrick

A fixed derrick with a mast that is capable of being rotated three hundred sixty degrees, but not capable of a continuous rotation. This derrick:

- Is supported in a vertical position by guys and a boom.
- Has a boom with the bottom end hinged or pivoted to move in a vertical plane.

PROPOSED

- Has a reeved rope between the head of the mast and the boom harness for lifting and lowering the boom.
- Has a reeved rope from the boom point for lifting and lowering the load.

Hairpin anchor

A guy-supporting anchor, shaped like a hairpin, that is placed in footings or walls before concrete is poured and held in place by the cured concrete.

Limit switch

A switch that is operated by some part or motion of a power-driven machine or equipment to alter the electric circuit associated with the machine or equipment.

Load

The total weight on the load block or hook.

Load block

The assembly of hook or shackle, swivel, bearing, sheaves, pins, and frame suspended by the hoisting rope.

Load block, upper

The assembly of sheaves, pins, and frame suspended from the boom.

Main switch

A switch controlling the entire power supply to the crane.

Mast

The upright member of the derrick.

Outriggers

Metal arms attached to the mounting base that rest on supports at the outer ends.

Overhead crane

A crane with a movable bridge carrying a movable or fixed hoisting mechanism and traveling on an overhead fixed runway structure.

Pawl (dog)

A device to keep a member from moving in one or more directions.

Pedestal crane

A crane with a rotating superstructure with operating machinery and boom, mounted on a pedestal.

Portal crane

A crane that has a rotating superstructure with operating machinery and boom, mounted on a gantry. It usually has a portal opening between the gantry columns or legs for traffic to pass beneath the crane. It can be mounted on a fixed or traveling base.

Qualified person

A person who has successfully demonstrated the ability to solve problems relating to the subject matter, work, or project, either by:

- Possession of a recognized degree, certificate, or professional standing;

OR

- Extensive knowledge, training, and experience.

Rated load

The maximum load for which a crane, derrick, or individual hoist is designed and built.

Reeving

A rope system that has the rope traveling around drums and sheaves.

Remote-operated crane

A crane controlled by an operator who is not in a pulpit or in the cab attached to the crane, using any method other than pendant or rope control.

Rock anchor

An anchoring device that is inserted into a hole drilled into rock or concrete.

Rope

Wire rope, unless otherwise specified.

Runway

The assembly of rails, beams, girders, brackets, and framework that the crane or trolley travels on.

Safety hook

A hook with a latch to prevent slings or loads from accidentally slipping off the hook.

Service levels

(*Light service, normal service, heavy service, severe service.*) The criteria for determining the different levels of service vary from crane type to crane type. The definition that applies to a specific style of crane or derrick can be found in the text of that section.

Shearleg derrick

A boom, with or without a mast, that is:

- Not capable of swinging.
- Hinged at the bottom.
- Raised and lowered by a boom-hoist mechanism or a hydraulic cylinder.

Side loading

When a load is applied at an angle to the vertical plane of the boom.

Sill

A member connecting the foot block and the stiffleg, or a member connecting the lower ends of a double-member mast.

Standby crane

A crane that is not in regular service but is used intermittently.

Standby derrick

A derrick not in regular service that is used only occasionally as required.

Stiffleg

A rigid member supporting the mast at the head.

Stiffleg derrick

A fixed derrick with a mast that is capable of being rotated three hundred sixty degrees, but not capable of a continuous rotation. This derrick:

- Has a mast that is supported or held in place by two or more stiff members, called stifflegs, that are capable of resisting tensile and compressive forces.
- Has a boom with the bottom end hinged or pivoted to move in a vertical plane.
- Has a reeved rope between the head of the mast and the boom harness for lifting and lowering the boom.
- Has a reeved rope from the boom point for lifting and lowering the load.
- Generally has sills connecting the lower ends of the stifflegs to the foot of the mast.

Stop

A device that limits travel of a trolley or crane bridge. This device normally is attached to a fixed structure and normally does not absorb energy.

Superstructure

The rotating upper frame of the machine and the operating machinery mounted on it.

Tackle

Ropes and sheaves arranged for hoisting and pulling.

Tower

A structural frame that is able to support a superstructure and its loads.

Tower crane

A crane with a tower between the superstructure and the base structure, and can be on either a fixed or traveling base.

Trolley

The unit that travels on the bridge rails and carries the hoisting mechanism.

Trolley travel

The trolley movement along the crane runway.

Truck

The unit consisting of a frame, wheels, bearings, and axles that supports the bridge girders or trolleys.

Two-block damage prevention feature

A system that will stall, without causing damage to the hoist rope or machinery, whenever two-blocking occurs.

Two-block warning feature

A warning device to alert the operator of a possible two-blocking condition.

Two-blocking

When a lower load block or hook assembly comes into contact with the upper load block or boom point sheave assembly.

Weathervaning

Swinging of an out-of-service crane caused by wind, so as to expose the minimal surface area to the wind.

Working load

The weight of the entire load applied to the derrick, includes the load attaching equipment.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-24-235 Overhead and gantry cranes.
- WAC 296-24-23501 Definitions.
- WAC 296-24-23503 General requirements.
- WAC 296-24-23505 Cabs.
- WAC 296-24-23507 Footwalks and ladders.
- WAC 296-24-23509 Stops, bumpers, rail sweeps, and guards.
- WAC 296-24-23511 Brakes.
- WAC 296-24-23513 Electric equipment.
- WAC 296-24-23515 Hoisting equipment.

- WAC 296-24-23517 Warning device.
- WAC 296-24-23519 Inspection.
- WAC 296-24-23521 Testing.
- WAC 296-24-23523 Maintenance.
- WAC 296-24-23525 Rope inspection.
- WAC 296-24-23527 Handling the load.
- WAC 296-24-23529 Operators.
- WAC 296-24-23531 Other requirements—General.
- WAC 296-24-240 Crawler locomotive and truck cranes.
- WAC 296-24-24001 Definitions.
- WAC 296-24-24003 General requirements.
- WAC 296-24-24005 Load ratings.
- WAC 296-24-24007 Inspection classification.
- WAC 296-24-24009 Testing.
- WAC 296-24-24011 Maintenance procedure.
- WAC 296-24-24013 Rope inspection.
- WAC 296-24-24015 Handling the load.
- WAC 296-24-24017 Other requirements.
- WAC 296-24-24019 Operating near overhead electric power lines.
- WAC 296-24-245 Derricks.
- WAC 296-24-24501 Definitions.
- WAC 296-24-24503 General requirements.
- WAC 296-24-24505 Load ratings.
- WAC 296-24-24507 Inspection.
- WAC 296-24-24509 Testing.
- WAC 296-24-24511 Maintenance.
- WAC 296-24-24513 Rope inspection.
- WAC 296-24-24515 Operations of derricks.
- WAC 296-24-24517 Handling the load.
- WAC 296-24-24519 Other requirements.

Chapter 296-831 WAC

CRANES, DERRICKS, AND OTHER LIFTING EQUIPMENT

NEW SECTION

WAC 296-831-100 Scope. Chapter 296-831 WAC, Cranes, derricks and other lifting equipment, applies to the

PROPOSED

construction, installation, operation, testing, inspection and maintenance of:

- Power- and hand-operated cranes.
- Crane monorail systems.
- Crane runways.
- Derricks.

Exemption: This chapter does not apply to:

- Automobile- or railway-wrecking cranes.
- Shipboard cranes.
- Well drilling derricks.
- Skip hoists.
- Mine hoists.
- Truck body hoists.
- Car or barge pullers.
- Excavating equipment.

Many companies use various types of equipment to move large, heavy loads. Many issues regarding safe equipment operation and employee safety must be addressed.

This chapter contains information that employers need to help keep their employees safe while working with this equipment.

NEW SECTION

WAC 296-831-200 Bridgestyle cranes.

Introduction:

WAC 296-831-200 through 296-831-240 apply to the following types of cranes, whether power-driven or hand-operated, as well as to related equipment:

- Cranes with top running or underhung bridges using top or underhung trolleys.
- Gantry, semigantry, and cantilever gantry cranes.
- Wall or pedestal mounted jib cranes.
- Polar cranes.
- Monorail systems.

NEW SECTION

WAC 296-831-210 Design and installation requirements for bridgestyle cranes.

Summary:

Your responsibility:

To make sure bridgestyle cranes are safe for operation. Make sure equipment meets the appropriate design and construction requirements of his rule

WAC 296-831-21005.

Use rail clamps and wind indicators

WAC 296-831-21010.

Have rated load markings on your cranes

WAC 296-831-21015.

Maintain proper clearances

WAC 296-831-21020.

Provide safe access to the cranes

WAC 296-831-21025.

Provide stops for all bridgestyle cranes

WAC 296-831-21030.

Provide stops, bumpers and rail sweeps for top-running bridge cranes

WAC 296-831-21035.

Provide adequate guards on cranes

WAC 296-831-21040.

Make sure electrical equipment is safe

WAC 296-831-21045.

Use proper controllers

WAC 296-831-21050.

Provide safe switches

WAC 296-831-21055.

Have a warning device on the crane

WAC 296-831-21060.

Provide fire extinguishers for bridgestyle cranes

WAC 296-831-21065.

Store personal and work materials properly on bridge-style cranes

WAC 296-831-21070.

NEW SECTION

WAC 296-831-21005 Make sure equipment meets the appropriate design and construction requirements of this rule.

You must:

Make sure all cranes in use prior to March 1, 2004, meet the design, construction and stability requirements as defined by the appropriate American National Standard Institute regulation, either:

- USAS B30.2 - 1967, Overhead and Gantry Cranes;

OR

• ANSI B30.11 - 1973, Monorail Systems and Underhung Cranes;

OR

• ANSI B30.17 - 1973, Single Girder Top Running Cranes. Make sure all new cranes acquired for use on or after May 1, 2004, meet the design, construction, and stability requirements as defined in this section and either:

• ASME B30.2 - 1996, Overhead and Gantry Cranes, including addenda A 1997, addenda B, 1998, and addenda C, 2001;

OR

• ASME B30.11 - 1998, Monorail Systems and Underhung Cranes, including addenda A, 1999;

OR

• ASME B30.17 - 1998, Overhead and Gantry Cranes (Top Running Bridge, Single Girder, Underhung Hoist), including addenda A, 1999 and addenda B, 2001.

NEW SECTION

WAC 296-831-21010 Use rail clamps and wind indicators.

You must:

• Make sure outdoor cranes with a top-running bridge have both:

– Automatic or remotely operated rail clamps, parking brakes or other equivalent devices capable of holding the crane against a wind pressure of thirty pounds per square foot;

AND

– A wind-indicating device that gives a visible or audible alarm to the crane operator at a specified wind velocity.

NEW SECTION

WAC 296-831-21015 Have rated load markings on your cranes.

You must:

- Make sure a crane's rated load is marked ALL these ways:
 - Plainly marked and legible from the ground or floor on each side of the crane or component attached to the bridge girder.
 - Marked and legible from the ground or floor on each hoisting unit or load block if more than one hoisting unit is used so that it can be read from the ground or floor.

NEW SECTION

WAC 296-831-21020 Maintain proper clearances.

You must:

- Maintain clearances between:
 - The crane and any obstructions.
 - All cranes operating on parallel runways.

NEW SECTION

WAC 296-831-21025 Provide safe access to cranes.

You must:

- Provide safe access to the cab or service platform by one of these means:
 - A ladder.
 - Stairs.
 - A platform.

Reference: See requirements for ladders and stairways in chapter 296-24 WAC Part J-1, and WAC 296-800-250.

You must:

- Make sure service platforms meet ALL of the following:
 - Have an anti-slip walking surface, such as unfinished wood or a surface painted with nonskid paint.
 - Have at least eighteen inches of clear passage space.
 - Opposite the bridge motor, clear passage space can be decreased to fifteen inches.
 - Are of substantial construction.
 - Provide a safety factor of four times the imposed maximum load.
 - Are kept clear of obstructions.
 - Have toeboards and handrails.

Reference: See additional requirements for toeboards and handrails in WAC 296-800-26010.

NEW SECTION

WAC 296-831-21030 Provide stops for all bridge-style cranes.

You must:

- Provide stops for trolleys and carriers. Stops must be:
 - At the limits of travel of the trolleys and carriers.
 - Able to resist the force that is applied when contacted by the crane.

NEW SECTION

WAC 296-831-21035 Provide bumpers and rail sweeps for top-running bridge cranes.

You must:

(1) Provide bridge bumpers or other automatic means to provide the same effect for top-running bridge cranes. They must be able to do all of the following:

- Stop the bridge when it is traveling at forty percent of the rated load speed.
- Stop the bridge (when not carrying a load and after power is cut) without decelerating faster than an average of three feet per second squared from twenty percent of the rated load speed.
- Retain the bumper in case of broken or loose mounting connections.

(2) Provide trolley bumpers or other automatic means to provide the same effect. They must be on adjacent ends of all trolleys operating on the same bridge and be able to do all of the following:

- Stop the trolley when it is traveling at fifty percent of the rated load speed.
- Stop the trolley (when not carrying a load and after power is cut) without decelerating faster than an average of 4.7 feet per second squared from one third of the rated load speed.
- Retain the bumper in case of broken or loose mounting connections.

(3) Provide bridge rail sweeps that extend below the top surface of the rail in front of the leading wheels on both end trucks.

NEW SECTION

WAC 296-831-21040 Provide adequate guards on cranes.

You must:

- Make sure that guards are used to prevent contact between bridge conductors and hoisting ropes, if they could otherwise come into contact during normal operations.
- Make sure open runway conductors are located or guarded so they prevent accidental contact with hoisting ropes.

Reference: See additional guarding requirements in WAC 296-802-200.

NEW SECTION

WAC 296-831-21045 Make sure electrical equipment is safe.

You must:

- Make sure any pendant controls meet ALL of the following:
 - They do not exceed voltage of 150 volts for AC and 300 volts for DC.
 - They are supported to protect the electrical conductors against strain.
 - They are constructed to prevent electrical shock.
 - They are clearly marked to identify their functions.

Reference: See wiring and electrical equipment requirements in chapter 296-24 WAC, Part L, and WAC 296-800-280.

NEW SECTION

WAC 296-831-21050 Use proper controllers.

You must:

(1) Make sure top-running bridge cranes have a device that disconnects all motors from the line if a power failure occurs. For example, a spring-return controller, a spring-return master switch, or momentary contact push buttons.

(2) Make sure any lever-operated controller in a cab- or pulpit-operated crane has a notch or latch that prevents the handle from being accidentally moved to the "ON" position.

(3) Make sure rope-operated controllers automatically return to the "OFF" position when released by the operator.

(4) Make sure push buttons in pendant stations automatically return to the "OFF" position when pressure is released.

NEW SECTION

WAC 296-831-21055 Provide safe switches.

You must:

(1) Make sure the power supply to runway conductors is controlled by a switch or circuit breaker that is ALL of the following:

- On a fixed structure.
- Accessible from the floor.
- Able to be locked in the off position.

(2) Make sure cab-operated cranes and carriers have a switch or circuit breaker that is ALL of the following:

- Enclosed.
- Able to be locked in the open position.
- Provided in the leads from the runway conductors.
- Located within easy reach of the operator.

(3) Make sure floor, remote, or pulpit-operated cranes have a switch or circuit breaker that is ALL of the following:

- Enclosed.
- Able to be locked in the open position.
- Provided in the leads from the runway conductors.
- Located within easy reach of the operator.

(4) Make sure electric traveling cranes have an over-travel limit switch to stop hoist motion.

(5) Make sure all cranes using a lifting magnet have an enclosed circuit switch that discharges the inductive load and is able to be locked in the "open" (OFF) position.

NEW SECTION

WAC 296-831-21060 Have a warning device on the crane.

You must:

• Make sure cab- and remote-operated cranes are equipped with an effective audible or visual warning signal. Examples of such devices include the following:

- Manually operated gong.
- Power-operated bell, siren or horn.
- Rotating beacon.
- Strobe light.

NEW SECTION

WAC 296-831-21065 Provide fire extinguishers for bridgestyle cranes.

You must:

• Make sure a fire extinguisher with a minimum extinguisher rating of 10 BC is kept in crane cabs.

Reference: See additional requirements relating to portable fire extinguishers in WAC 296-800-300, Portable fire extinguishers.

NEW SECTION

WAC 296-831-21070 Store personal and work materials properly on bridgestyle cranes.

You must:

Make sure clothing, personal belongings, tools, and other necessary articles are stored so they do not interfere with crane access or operation.

NEW SECTION

WAC 296-831-220 Hoisting equipment on bridge-style cranes.

Summary:

Your responsibility:

To make sure hoisting equipment on bridgestyle cranes is used correctly.

You must:

Use and maintain sheaves on bridgestyle cranes properly WAC 296-831-22005.

Follow these requirements when using hoisting ropes on bridgestyle cranes

WAC 296-831-22010.

Use reeving accessories on bridgestyle cranes correctly WAC 296-831-22015.

Use hooks on bridgestyle cranes correctly WAC 296-831-22020.

NEW SECTION

WAC 296-831-22005 Use and maintain sheaves on bridgestyle cranes properly.

You must:

- Make sure sheaves are:
 - Smooth and free from surface defects that could cause wire rope damage.
 - Guarded in a way that prevents the rope from jamming.

NEW SECTION

WAC 296-831-22010 Follow these requirements when using hoisting ropes on bridgestyle cranes.

You must:

- Make sure wire rope is used as follows:
 - Use only wire ropes recommended by the crane manufacturer.
 - Make sure the rated load divided by the number of parts of rope does not exceed twenty percent of the minimum breaking strength of the rope.

- Use rope appropriate for the conditions, such as environmental conditions and extreme heat.
- Follow the manufacturer's recommendations when socketing.
- Make sure tension in all parts of the rope is equal, if more than one part is used to support the load.
- Attach the wire rope to the crane as follows:
 - The rope end must be anchored securely by a clamp attached to the drum or a socket arrangement specified by the crane or rope manufacturer.
 - There must be enough rope so that at least two wraps of rope are on the drum when the hook is in its lowest position.

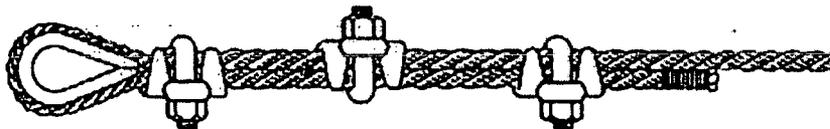
NEW SECTION

WAC 296-831-22015 Use reeving accessories on bridgestyle cranes correctly.

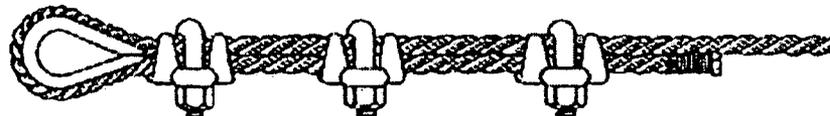
- You must:**
- Use reeving accessories correctly, as follows:
 - Attach U-bolts on the dead or short end of the wire rope, with the live end resting in the saddle (see Illustration 200-1).
 - Use only drop-forged steel wire rope clips, not malleable cast iron.
 - Follow the clip manufacturer's recommendation for spacing, number of clips, and tightening evenly to the recommended torque values.
 - Retighten all nuts on clip bolts after initial load is applied to newly installed wire rope.
 - Make sure swaged or compressed fittings are applied as recommended by the wire rope, crane, or fitting manufacturer.



Right Way For Maximum Rope Strength



Wrong Way: Clips Straggered



Wrong Way: Clips Reversed

NEW SECTION

WAC 296-831-22020 Use hooks on bridgestyle cranes correctly.

- You must:**
- Make sure hooks:
 - Are either latched, with the latch bridging the throat opening of the hook, or are moused.
 - Meet the manufacturer's recommendations.
 - Are not overloaded.

NEW SECTION

WAC 296-831-230 Inspections, maintenance, and testing of bridgestyle cranes.

- Summary:**
- Your responsibility:**
- To keep bridgestyle cranes in safe operating condition by performing regular inspections, maintenance, and testing.

- You must:**
- Service level definitions for bridgestyle cranes WAC 296-831-23001.
 - Perform initial inspections on bridgestyle cranes WAC 296-831-23005.
 - Perform frequent inspections on bridgestyle cranes WAC 296-831-23010.
 - Perform periodic inspections on bridgestyle cranes WAC 296-831-23015.
 - Inspect wire rope on bridgestyle cranes regularly WAC 296-831-23020.
 - Replace wire rope on bridgestyle cranes as required WAC 296-831-23025.
 - Maintain and store wire rope for bridgestyle cranes safely WAC 296-831-23030.
 - Replace chain as required WAC 296-831-23035.

Establish and follow safe maintenance and repair procedures for bridgestyle cranes
 WAC 296-831-23040.
 Lubricate parts safely
 WAC 296-831-23045.
 Repair or replace hooks on bridgestyle cranes as required
 WAC 296-831-23050.
 Perform operational tests on bridgestyle cranes
 WAC 296-831-23055.

NEW SECTION

WAC 296-831-23001 Service level definitions for bridgestyle cranes.

IMPORTANT:

The levels of service (light, normal, heavy, and severe) that determine the frequencies of inspections are defined differently depending on the style of crane you are operating. Use this table to find out the level of service for your **bridgestyle** crane.

PROPOSED

**Table 200-1
 Service Level Definitions for Bridgestyle Cranes**

Type of Crane	Normal Service	Heavy Service	Severe Service
Defined by ANSI/ASME B30.2	Service that involves operating, as a regular procedure: <ul style="list-style-type: none"> • At less than 85% of rated load; AND • Not more than 10 lift cycles per hour. 	Service that involves operating, as a regular procedure, either: <ul style="list-style-type: none"> • At 85% to 100% of rated load; OR • More than 10 lift cycles per hour. 	Service that involves normal or heavy service with abnormal operating conditions.
Defined by ANSI/ASME B30.11	Service that involves operation with either: <ul style="list-style-type: none"> • Randomly distributed loads within the rated load limit; OR • Uniform loads of less than 65% of the rated load for not more than 15% of the time of a single work shift for manually operated hoists; OR • Uniform loads of less than 65% of the rated load for not more than 25% of the time of a single work shift for electric- or pneumatic-powered hoists. 	Service that involves operation within the rated load limit which exceeds normal service.	
Defined by ANSI/ASME B30.17	Service that involves operation with either: <ul style="list-style-type: none"> • Randomly distributed loads within the rated load limit; OR • Uniform loads of less than 65% of the rated load, for no more than 15% of the time of a single work shift for manually operated cranes; OR 	Service that involves operation within the rated load limit that exceeds normal service.	

Table 200-1
Service Level Definitions for Bridgestyle Cranes

Type of Crane	Normal Service	Heavy Service	Severe Service
	<ul style="list-style-type: none"> • Uniform loads of less than 65% of the rated load, for no more than 25% of the time of a single work shift for electric- or pneumatic-powered cranes. 		

PROPOSED

NEW SECTION

WAC 296-831-23005 Perform initial inspections on bridgestyle cranes.

You must:

• Make sure a designated person inspects all cranes before initial use **and** whenever the equipment has been:

- Altered.
- Repaired.
- Modified.
- Reinstalled.

Note: The designated person can limit the inspection to the areas affected by the alteration, repair, or modification.

• Make sure this inspection includes all items in Table 200-2, Frequent Inspection Checklist, Table 3, Periodic Inspection Checklist, and Table 4, Wire Rope Inspection.

NEW SECTION

WAC 296-831-23010 Perform frequent inspections on bridgestyle cranes.

You must:

• Make sure a designated person conducts frequent inspections as follows:

- Inspect all items in Table 200-2, Frequent Inspection Checklist.
- Examine any problems observed during the operation of the crane.
- Have a designated person conduct a more detailed inspection if hazardous conditions are found.

• Make sure the crane is not used until any hazardous conditions found during the inspection have been corrected.

Items to Check	How Often
Air or hydraulic systems for leakage, including: <ul style="list-style-type: none"> • Tanks. • Valves. • Pumps. • Lines. 	
Hooks for: <ul style="list-style-type: none"> • Distortion, wear, or cracks. • Damaged or malfunctioning latch. • Proper rotation, if applicable. 	
Hoist ropes and visible end connections for: <ul style="list-style-type: none"> • Distortion. • Corrosion. • Number of broken wires. 	
Proper spooling of rope onto the drum(s) and sheave(s).	
Hoist chain for: <ul style="list-style-type: none"> • Stretch. • Gouges. • Nicks. • Weld spatter. • Corrosion. • Pitting. • Discoloration. 	

NEW SECTION

WAC 296-831-23015 Perform periodic inspections on bridgestyle cranes.

You must:

• Make sure a designated person conducts periodic inspections as follows:

- Inspect all items listed in both Table 200-2, Frequent Inspection Checklist, and Table 200-3, Periodic Inspection Checklist.

- Make sure a designated person determines whether disassembly of one or more components or pieces of equipment for additional inspection is needed as a result of any hazardous conditions found during the periodic inspection.

Make sure the crane is not used until any hazardous conditions found during the inspection have been corrected.

Table 200-2
Frequent Inspection Checklist for Bridgestyle Cranes

Items to Check	How Often
Operating mechanisms for: <ul style="list-style-type: none"> • Proper operation. • Unusual sounds. 	<ul style="list-style-type: none"> • Monthly for normal service. • Weekly to monthly for heavy service. • Daily to weekly for severe service. • Before returning to service when the crane has been idle more than one month.
Upper-limit device(s) for proper operation Note: The upper limit device is to be: <ul style="list-style-type: none"> • Tested with no load on the hook, and • Inched into its limit. 	

- Keep current dated inspection records for periodic inspections on file.

Table 200-3

Periodic Inspection Checklist for Bridgestyle Cranes

You must: Check for evidence of	A minimum of	
Deformed, cracked, or corroded members of the structures.		
Loose or missing bolts, nuts, pins, or rivets.	• Yearly under normal and heavy service.	
Cracked or worn sheaves and drums.	• Quarterly under severe service.	
Cracked, worn or distorted parts such as pins, bearings, wheels, shafts, gears, rollers, locking and clamping devices, bumpers, stops, switch baffles, interlock bolts, and end stops.	• Before returning to service when the crane has been idle more than a year.	
Excessive wear of brake system parts.		
Excessive wear of drive chain sprockets and excessive chain stretch.		
Deterioration of controllers, master switches, contacts, limit switches/devices, and push-button stations.		
Improper operation of wind indicators.		
Improper operation of power plants.		
Problems with motion-limit devices that interrupt power or cause a warning to be activated for proper performance. Each motion must be inched or operated at low speed into the limit device with no load on the crane.		
Failure of wire rope reeving to comply with crane manufacturer's design.		
Illegibility of any function, instruction, caution, and warning labels or plates.		
Excessive wear or damage to drive tires.		
Excessive wear or deformation of lower load-carrying flange of all track sections in the system, both straight and curved.	Yearly under normal service, or as determined by a qualified engineer.	Quarterly under severe service.

– Perform a more detailed inspection as described in Table 200-3.

- Keep current dated inspection records for rope inspections on file.

Table 200-4

Wire Rope Inspection Checklist

Items to Check	How Often
<p>Running ropes for:</p> <ul style="list-style-type: none"> • Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires. • A number of broken outside wires and the degree of distribution or concentration of such broken wires. • Worn outside wires. • Corroded or broken wires at end connections. • Corroded, cracked, bent, worn, or improperly applied end connections. • Severe kinking, crushing, cutting, or unstranding. 	<p>At least once a month; more often as the rope begins to wear.</p>
<p>The entire length of wire rope for:</p> <ul style="list-style-type: none"> • Distortion of the wire rope, such as kinking, crushing, unstranding, birdcaging, main strand displacement, or core protrusion. • General corrosion. • Broken or cut strands. • Number, distribution, and type of visible broken wires. 	<p>As determined by a qualified person. This decision is to be based on such factors as:</p> <ul style="list-style-type: none"> • Expected rope life. • Severity of environment. • Percentage of capacity lifts. • Frequency rates of operation.

NEW SECTION

WAC 296-831-23025 Inspect wire rope for bridge-style cranes regularly.

You must:

- Make sure wire rope inspections are conducted as described by Table 200-3. Do one of the following if the inspection shows damaged wire rope or chain:

– Remove wire rope or chain from service;

OR

**Table 200-4
Wire Rope Inspection Checklist**

Items to Check	How Often
<ul style="list-style-type: none"> • Reduction of wire rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires. • Severely corroded or broken wires at end connections. 	<ul style="list-style-type: none"> • Exposure to shock loads. Inspections do not need to be at equal calendar intervals, and should be more frequent as the rope wears.

NEW SECTION

WAC 296-831-23030 Replace wire rope on bridge-style cranes as required.

You must:

- Repair or resocket wire rope when end connections develop more than one broken wire adjacent to a socketed end connection.
 - Resocket an end connection only if the remaining wire rope will be long enough for full operation.
 - Make sure wire rope when it shows ANY of the following:
 - One outer wire broken at the contact point that protrudes or loops out from the rope structure.
 - Wear of 1/3 the original diameter of outside individual wires.
 - Kinking, crushing, birdcaging, or any other damage resulting in distortion of rope structure.
 - Evidence of heat damage from any cause.
 - Running rope with:
 - Twelve randomly distributed broken wires in one lay.
 - Four broken wires in one strand in one lay.
 - Reduction from nominal diameter greater than the manufacturer's recommendation.
 - If manufacturer's recommendations are not available, refer to Table 200-5.
 - Have a qualified person determine when to replace wire rope:
 - Immediately.
 - At the end of the work shift.
 - Before the next use of the crane.
 - Make sure replacement wire rope and connections are the same size, type, grade, construction and strength unless specified otherwise by either:
 - The rope, crane, or hoist manufacturer;
- OR**
- A qualified person.

**Table 200-5
Allowed Nominal Reduction of Rope**

Nominal Diameter	Maximum Allowable Reduction From Rope Diameter
Up to 5/16 in. (8 mm)	1/64 in. (0.4 mm)
Over 5/16 in. to 1/2 in. (13 mm)	1/32 in. (0.8 mm)
Over 1/2 in. to 3/4 in. (19 mm)	3/64 in. (1.2 mm)
Over 3/4 in. to 1 1/8 in. (29 mm)	1/16 in. (1.6 mm)
Over 1 1/8 in. to 1 1/2 in. (38 mm)	3/32 in. (2.4 mm)

NEW SECTION

WAC 296-831-23035 Maintain and store wire rope for bridgestyle cranes safely.

You must:

- Unreel or uncoil wire rope in a way that avoids twisting or kinking the rope.
 - Avoid dragging the rope in dirt or around objects that will scrape, nick, crush, or induce sharp bends in the rope.
 - Take precautions to prevent wire rope strands from unraveling before you cut the rope.
 - Make sure any lubricant used:
 - Is compatible with the original lubricant.
 - Does not hinder the visual inspection of the rope.
- Note:** Wire rope should be maintained in a well-lubricated condition, giving special attention to sections that are hidden.

NEW SECTION

WAC 296-831-23040 Replace chain as required.

You must:

- Follow the requirements in Table 200-6 for replacing chain.

**Table 200-6
Chain Replacement Criteria**

Type of Chain	You must: Follow these requirements for replacing chain
Any chain	<ul style="list-style-type: none"> • Make sure ALL of these apply when replacing chain: <ul style="list-style-type: none"> – Replacement chain is the same size, grade and construction as the original chain, unless otherwise recommended by the hoist manufacturer or a qualified person. – There is no twist between the hoist and an anchored end on either the loaded side or slack side.

PROPOSED

PROPOSED

Type of Chain	You must: Follow these requirements for replacing chain
	<ul style="list-style-type: none"> - Mating parts (sprockets, guides, stripper) are disassembled and inspected for wear. - Discarded load chains are not used for slings.
Welded link chain	<ul style="list-style-type: none"> • When it has stretched beyond the hoist manufacturer's recommended length. <ul style="list-style-type: none"> - If you do not have the manufacturer's recommendations, replace the chain when it is: <ul style="list-style-type: none"> ■ 2 1/2% longer than unused chain, for hand-operated hoists. ■ 1 1/2% longer than unused chain, for powered hoists.
Roller chain	<ul style="list-style-type: none"> • When inspection shows: <ul style="list-style-type: none"> - Twist in any 5 ft. section exceeds 15 degrees. - Chain has a side bow in plane perpendicular to the plane of the roller that exceeds 1/4 inch in any 5 ft. section. - Chain has stretched beyond the hoist manufacturer's recommendation. Note: If the hoist manufacturer's recommendation is not available, you should do the following: <ul style="list-style-type: none"> - Determine the nominal pitch of your chain. - Measure a 12 inch section that normally travels over the chain sprocket. - Measure the dimension from the edge of one chain pin to the corresponding edge of another pin with a caliper-type gauge. - Replace chain if the measured section is more than 1/4 inch longer than the nominal pitch. • Make sure ALL of these apply when replacing roller chain: <ul style="list-style-type: none"> - Replacement chain is the same size, grade, and construction as the original chain unless otherwise recommended by the hoist manufacturer or a qualified person.

Type of Chain	You must: Follow these requirements for replacing chain
	<ul style="list-style-type: none"> - Mating parts (sprockets, guides, stripper) are disassembled and inspected for wear and replaced if necessary. - Chain is reeved as outlined in the hoist manufacturer's manual or as recommended by a qualified person. - Discarded roller chains are not used for slings.

NEW SECTION

WAC 296-831-23045 Establish and follow safe maintenance and repair procedures for bridgestyle cranes.

You must:

(1) Make sure only designated persons perform maintenance tasks including adjusting, repairing, and replacing crane parts.

(2) Make sure ALL of the following are done BEFORE performing maintenance, adjustments, or repairs on a **crane or hoist**:

- Move the crane to a location resulting in the least interference with other cranes, carriers, or operations.
- Set the load down.
- Place controllers in the "OFF" position.
- Install a guard or barrier between adjacent runways for the length of the work area to prevent contact between maintenance workers and a crane on the adjacent runway.

Reference: See additional requirements in chapter 296-24 WAC, Part A-4, Controlling hazardous energy, when performing maintenance, adjustments or repairs.

You must:

(3) Make sure ALL of the following are done BEFORE performing maintenance on a **crane system**, including the crane runway, its support structure, runway conductor systems or areas in the path of travel of the crane bridge or trolley:

- Place warning signs and barriers on the floor beneath the work area if the overhead work creates a hazard.
- Install a guard or barrier between adjacent runways for the length of the work area to prevent contact between persons performing maintenance and a crane on the adjacent runway.

(4) Make sure either of the following are done if the runway will be used by other cranes during maintenance:

- Use stops to prohibit an active crane from contacting:
 - The idle crane.
 - Maintenance workers.
 - Maintenance equipment.

OR

- Provide a dedicated signal person at a visual vantage point for observing the approach of other cranes.

NEW SECTION**WAC 296-831-23050 Lubricate parts safely.****You must:**

- Do the following when lubricating a crane. Make sure:
 - Machinery is stationary while it is being lubricated.

Exceptions:

- Machinery does not need to remain stationary while it is being used to lubricate runways or other parts of the crane system.
- Wire rope does not need to remain stationary if it is necessary to move it to lubricate it effectively in accordance with the manufacturer's recommendations.

– The crane does not interfere with other cranes, carriers, or operations.

- A load is not attached to the crane.
- Controllers are in the "OFF" position.

Note: Manufacturer's recommendations, or those of a qualified person, should be followed when lubricating all moving and controller crane parts.

NEW SECTION**WAC 296-831-23055 Repair or replace hooks on bridgestyle cranes as required.****You must:**

- Make sure a qualified person determines if a damaged hook needs to be replaced or can be repaired.
- Repair or replace a hook when it shows:
 - Cracks, nicks or gouges.
 - Wear of more than ten percent of the original sectional dimension, or as recommended by the manufacturer.
 - A bend or twist exceeding ten degrees from the plane of the unbent hook.
 - An increase in the throat opening of more than fifteen percent of the original sectional dimension, or as recommended by the manufacturer.
- Follow these requirements when repairing a hook:
 - Only a designated person can repair cracks, nicks and gouges.
 - Grind longitudinally.
 - Follow the contour of the hook.
 - The dimension of the hook must NOT be reduced more than ten percent of its original value, unless otherwise recommended by the manufacturer.

NEW SECTION**WAC 296-831-23060 Perform operational tests on bridgestyle cranes.****You must:**

- Make sure operational tests are performed on new and altered cranes. Testing must include:
 - Hoisting and lowering.
 - Trolley travel.
 - Bridge travel.
 - Limit switches, locking and safety devices.
- Determine the trip setting of hoist limit switches as follows:
 - Use an empty hook.

– Make a series of runs at increasing hook speeds, up to the maximum speed.

- Locate the actuating mechanisms of the limit switch so it will trip under all conditions, soon enough to prevent contact of the hook or load block with any part of the trolley.

NEW SECTION**WAC 296-831-240 Operating bridgestyle cranes.****Summary:****Your responsibility:**

To make sure bridgestyle cranes are operated safely.

You must:

Allow bridgestyle cranes to be operated only by specific people

WAC 296-831-24005.

Attach the load to bridgestyle cranes correctly

WAC 296-831-24010.

Operate bridgestyle cranes safely

WAC 296-831-24015.

Perform planned engineered lifts correctly

WAC 296-831-24020.

NEW SECTION**WAC 296-831-24005 Allow bridgestyle cranes to be operated only by specific people.****You must:**

- Make sure only these people operate a crane:
 - Designated persons who have successfully passed a practical operating exam for the specific type of equipment they will operate.
 - Trainees, under the direct supervision of a designated person.
 - Crane inspectors.
 - Maintenance and test personnel, with the knowledge of the operator or other designated person.

NEW SECTION**WAC 296-831-24010 Attach the load to bridgestyle cranes correctly.****You must:**

- (1) Make sure the load is within the specifications of the load rating chart, except for load testing or planned engineered lifts done according to WAC 296-831-24030.
- (2) Make sure the load lines and attachments meet the following:
 - Keep the hoist rope from kinking or wrapping around the load.
 - Keep multiple part lines from twisting around each other.
 - Bring the hook over the load in a way that prevents swinging.
 - Attach the load to the hook with slings or other approved devices.
 - Secure the load and balance it before lifting more than a few inches.

– Balance the load so no units exceed their rated load capacity, when using multiple hoisting units.

NEW SECTION

WAC 296-831-24020 Operate bridgestyle cranes safely.

You must:

(1) Make sure one qualified person is in charge of any lift that will use two or more cranes. The qualified person must instruct the other operators about:

- Proper positioning.
- Rigging the load.
- Movements to be made.

(2) Make sure the operator consults with their supervisor whenever they have a question about the safety of handling any load.

• Make sure the crane operator notifies the supervisor and the next operator of any uncorrected defect in the crane.

(3) Make sure the operator doesn't engage in any practice that diverts their attention while actually engaged in operating equipment.

(4) Make sure the operator obeys any stop signal given by any worker.

(5) Make sure the operator does NOT allow anyone to ride on the load or hook.

(6) Make sure during lifting, a load doesn't:

- Suddenly accelerate or decelerate.
- Contact any obstruction.

(7) Make sure the crane operator contacts runway stops or other cranes and carrier with both:

- Extreme caution.

AND

• After notifying people on the other crane.

(8) Make sure the operator does not lower a load below the point where only two wraps of wire rope remain on each anchorage of the hoisting drum.

(9) Make sure the operator opens the magnet switch when a ground person requests it, and signals them that the magnet has been deenergized.

(10) Make sure the operator closes the main switch (crane disconnect) only when:

- No one is on or adjacent to the crane or carrier.
- All controllers are in the "OFF" position.

(11) Make sure the crane operator activates the warning device on cab-, remote-, and, when provided, floor-operated cranes:

- Before starting the bridge or trolley in motion.
- When approaching people in the path of the load.

(12) Make sure the operator immediately places all controllers in the "OFF" position whenever power is lost during operation.

• Make sure that the operating motions are checked for proper direction after power is restored.

(13) Make sure the operator does the following when the wind alarm of an outdoor crane has sounded:

- Discontinues operation of the crane.
- Prepares and stores the crane for excessive wind conditions.

(14) Make sure the operator does NOT use a hoist-limit device as an operating control, unless other means are used to prevent damage to the hoist block by overtravel.

(15) Make sure the crane operator does the following before leaving a cab-operated crane or carrier unattended:

- Sets the load down.
- Places controllers or master switches in the "OFF" position.
- Deenergizes:
 - The main switch of the specific crane or carrier.
 - The runway disconnect if all cranes on the runway will be unattended for longer than one shift.

NEW SECTION

WAC 296-831-24025 Perform planned engineered lifts correctly.

You must:

Make sure planned engineered lifts are done as follows:

• Only cranes with a load rating of five tons or above may be used.

• The load must not exceed one hundred twenty-five percent of the rated load, unless the crane manufacturer is consulted and approves otherwise.

• No more than two lifts are to be done in a twelve-month period with any crane, unless the crane manufacturer is consulted and approves otherwise.

• Prepare a written review of the crane service history, including:

– Reference to previous planned engineered lifts.

– Structural repairs.

– Modifications of original design.

• The design of the crane-supporting structure must be reviewed and approved by a qualified person. The support must be inspected and any deterioration or deformation taken into consideration.

• The crane must be given a periodic inspection just before making the lift.

• A designated person will direct the lift, under controlled conditions, in accordance with a previously prepared lift plan.

• All people in the area must be alerted that the lift is being made.

• The operator must test the crane by lifting the load a short distance and setting the brakes. The lift is to continue ONLY if the brakes stop and hold the load. Correct any failure to hold the load before proceeding with the lift.

• Perform a periodic inspection after the lift is completed, before using the crane to lift any other load.

• Keep records of the lift on file, including:

– Calculations.

– Inspections.

– All distances moved.

NEW SECTION**WAC 296-831-300 Mobile cranes.****Introduction:**

WAC 296-831-300 through 296-831-340 apply to all mobile cranes. Mobile cranes are powered by internal combustion engines or electric motors and are mounted on a mobile chassis.

The major types of mobile cranes are:

- Locomotive cranes.
- Crawler cranes.
- Wheel-mounted cranes.
- Articulating cranes.

You may have other variations of these cranes in your workplace not listed here but covered by these requirements.

Articulating cranes are often equipped with a load hoist mechanism to increase their usefulness. This section also covers load hoist mechanism equipped machines. The requirements of this section apply only when these machines are used as lifting cranes.

Exemptions: The following are exempt from this book:

- Cranes with a maximum rated capacity of one ton or less.
- Digger derricks.
- Side-boom tractors.
- Cranes specifically for energized electrical line service.
- Trolley boom cranes.
- Cranes designed for railway and automobile wreck clearance.
- Articulating boom cranes of the following types:
 - With booms made of nonconductive materials.
 - Designed primarily for personnel lifting.
 - Equipped with nonlifting attachments.
 - Used in forestry and logging.
 - Used solely as scrap and material handlers.

NEW SECTION**WAC 296-831-310 Design and installation requirements for mobile cranes.****Summary:****Your responsibility:**

To make sure mobile cranes are safe for operation.

You must:

Make sure equipment meets appropriate design and construction requirements of this rule

WAC 296-831-31005.

Have rated capacity charts available

WAC 296-831-31010.

Maintain booms in a safe operating condition

WAC 296-831-31015.

Provide two-blocking protection on mobile cranes

WAC 296-831-31020.

Provide fire extinguishers

WAC 296-831-31025.

Store personal and work materials properly

WAC 296-831-31030.

NEW SECTION**WAC 296-831-31005 Make sure equipment meets appropriate design and construction requirements of this rule.****You must:**

• Make sure all cranes in use prior to March 1, 2004, meet the design, construction and stability requirements as defined by the appropriate American National Standard Institute regulation, either:

– USAS B30.5 - 1968, Crawler, Locomotive and Truck Cranes;

OR

– ASME/ANSI B30.2 - 1986, Articulating Boom Cranes.

• Make sure all new cranes acquired for use on or after May 1, 2004, meet the design, construction, and stability requirements as defined in either:

– ASME B30.5 - 2000, Mobile and Locomotive Cranes, including addenda A - 2002;

OR

– ASME B30.22 - 2000, Articulating Boom Cranes.

NEW SECTION**WAC 296-831-31010 Have rated capacity charts available. You must:**

• Make sure a durable and legible rated capacity chart for all mobile cranes is readily available to the operator while at the controls. This chart must:

– Include the manufacturer's rated capacity at all operating radii for all permissible boom and jib lengths and configurations.

– Show alternate ratings for optional equipment affecting the ratings.

– Show recommended reeving for hoist lines.

NEW SECTION**WAC 296-831-31015 Maintain booms in safe operating condition.****You must:**

• Make sure boom support hydraulic cylinders have an integrally mounted holding device to prevent uncontrolled lowering of the boom, if the hydraulic system fails.

Note: A load hold check valve meets this requirement.

Exemption: The following requirements do not apply to articulating cranes.

You must:

• Make sure your crane has:

– Boom stops to provide resistance if the boom falls backwards. Stops can be:

■ A fixed or telescoping bumper.

■ A shock absorbing bumper.

■ Hydraulic boom elevation cylinders.

– Restraints that keep jibs from falling backwards.

– Boom angle or radius indicators readable from the operator's station.

– Means of automatically stopping the hoist when the boom reaches a predetermined high angle. This can be either:

- A boom hoist disconnect;
- A shutoff;

OR

- Hydraulic relief.

– A boom length indicator, if using telescoping booms, readable from the operator's station.

Note: If the load rating is independent of the boom length, a boom length indicator is not needed.

NEW SECTION

WAC 296-831-31020 Provide two-blocking protection on mobile cranes.

You must:

• Make sure two-blocking damage prevention features are provided on:

- Telescopic boom cranes

AND

- Articulating cranes with a winch.

• Make sure lattice boom cranes have either:

- An anti-two-block device;

OR

- A two-block warning feature.

NEW SECTION

WAC 296-831-31025 Provide fire extinguishers.

You must:

Provide each crane with a BC fire extinguisher that can be easily accessed by the operator.

Reference: See additional requirements relating to portable fire extinguishers in WAC 296-800-300, Portable fire extinguishers, found in the safety and health core rules.

NEW SECTION

WAC 296-831-31030 Store personal and work materials properly.

You must:

• Make sure clothing, personal belongings, tools, and other necessary articles are stored so they do not interfere with access to the crane or its operation.

NEW SECTION

WAC 296-831-320 Hoisting equipment for mobile cranes.

Summary:

Your responsibility:

To make sure hoisting equipment on mobile cranes is used correctly.

You must:

Use and maintain sheaves on mobile cranes properly
WAC 296-831-32005.

Follow these requirements when using hoisting ropes on mobile cranes

WAC 296-831-32010.

Use reeving accessories on mobile cranes correctly

WAC 296-831-32015.

Use hooks on mobile cranes correctly

WAC 296-831-32020.

NEW SECTION

WAC 296-831-32005 Use and maintain sheaves on mobile cranes properly.

You must:

• Make sure sheave grooves are free from surface defects that could damage the rope.

• Make sure guards are in place to:

– Guide the rope back into the sheave groove, when using ropes that can be momentarily unloaded.

– Prevent ropes from becoming fouled when the block is lying on the ground with loose ropes.

NEW SECTION

WAC 296-831-32010 Follow these requirements when using hoisting ropes on mobile cranes.

You must:

• Follow these requirements when using hoisting ropes:

– Use only wire ropes recommended by either the rope or crane manufacturer, or a qualified person.

– Do not use rotation resistant or fiber core rope for boom hoist reeving.

– Follow the rope or fitting manufacturer's specifications when socketing.

– Make sure tension is equal in all parts of the rope, if more than one part is used to support the load.

NEW SECTION

WAC 296-831-32015 Use reeving accessories on mobile cranes correctly.

You must:

• Make sure eye splices are made according to the manufacturer's recommendations.

• Make sure wire rope clips are:

– Made from dropforged steel, not malleable cast iron.

– Single saddle (U-bolt) or double saddle.

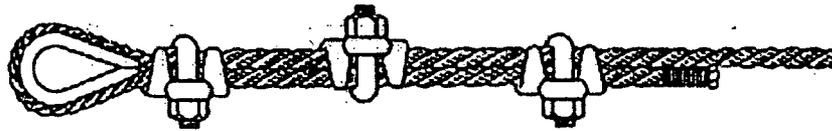
– Used according to the clip manufacturer's recommendations for spacing, number of clips, and tightened evenly to the recommended torque values.

– Attached with the U-bolt over the dead end of the rope and the live rope resting in the saddle, when using U-bolts.

PROPOSED



Right Way For Maximum Rope Strength



Wrong Way: Clips Straggered



Wrong Way: Clips Reversed

– Retightened after the initial load is applied to the rope, and periodically during use to compensate for decrease in rope diameter.

• Make sure swaged, compressed, or wedge socket fittings are applied as recommended by either:

- The rope, crane, or fitting manufacturer;

OR

- A qualified person.

• Make sure new poured sockets or swaged socket assemblies for boom pendants are proof tested to the lower of the following:

– Fifty percent of the nominal strength of the component wire rope or structural strand.

– The manufacturer's recommendation.

• Attach wire rope clips only to the unloaded dead end of the rope when using with wedge sockets.

Note: Piggyback-style clips can be used if the manufacturer's instructions are followed. See Illustration 2.



Loop Back Method



Extra Piece of Same Size Rope is Clipped to Main Rope

NEW SECTION

WAC 296-831-32020 Use hooks on mobile cranes correctly.

You must:

- Make sure hooks:
 - Are either latched, with the latch bridging the throat opening of the hook, or are moused.
 - Meet the manufacturer's recommendations.
 - Are not overloaded.

NEW SECTION

WAC 296-831-330 Inspections, maintenance and testing for mobile cranes.

Summary:

Your responsibility:

To keep mobile cranes in safe operating condition by performing regular inspections, and maintenance, and testing.

You must:

Perform initial inspections on mobile cranes

PROPOSED

- WAC 296-831-33005.
Perform frequent inspections on mobile cranes
- WAC 296-831-33010.
Perform periodic inspections on mobile cranes
- WAC 296-831-33015.
Inspect wire rope for mobile cranes regularly
- WAC 296-831-33020.
Replace wire rope on mobile cranes as required
- WAC 296-831-33025.
Maintain and store wire rope for mobile cranes safely
- WAC 296-831-33030.
Refuel mobile cranes properly
- WAC 296-831-33035.
Establish and follow safe maintenance and repair procedures for mobile cranes
- WAC 296-831-33040.
Repair or replace hooks on mobile cranes as required
- WAC 296-831-33045.
Perform testing
- WAC 296-831-33050.

NEW SECTION

WAC 296-831-33005 Perform initial inspections on mobile cranes.

You must:

- Make sure a designated person inspects cranes before initial use **and** whenever the equipment has been:
 - Altered.
 - Repaired.
 - Modified.

Note: The designated person can limit the inspection to the areas affected by the alteration, repair or modification.

You must:

- Make sure this inspection includes all items in Table 300-1, Frequent Inspection Checklist, Table 300-2, Periodic Inspection Checklist, and Table 300-3, Wire Rope Inspection.

NEW SECTION

WAC 296-831-33010 Perform frequent inspections on mobile cranes.

You must:

- Make sure a designated person conducts frequent inspections as follows:
 - Inspect all items in Table 300-1, Frequent Inspection Checklist.
 - Examine any problems observed during the operation of the crane.
 - Carefully examine any identified deficiencies, determining whether they constitute a safety hazard.
 - Make sure the crane is not used until any hazardous conditions found during the inspection have been corrected.
 - Keep readily available monthly written, dated, and signed inspection reports on all critical items in use such as brakes and hooks.

Table 300-1

Frequent Inspection Checklist for Mobile Cranes

Items to Check	How Often
Operational aids for: • Malfunction.	<ul style="list-style-type: none"> • Daily, when used. • Before putting into service when the crane has been idle one month or more. • Twice a year for standby cranes. <p>Note: If operational aids are not working, follow the manufacturer's recommendations. If manufacturer's recommendations are not available, have:</p> <ul style="list-style-type: none"> • A qualified person determine if repair or recalibration is needed. • The lift supervisor establish procedures for working without the aids.
Control mechanisms for: • Maladjustments that interfere with proper operation.	<ul style="list-style-type: none"> • Daily, when used. • Before putting into service when the crane has been idle one month or more • Twice a year for standby cranes
Air or hydraulic systems for: • Deterioration. • Leakage. • Proper oil level.	
Control mechanisms for: • Wear of components. • Contamination by lubricants.	<ul style="list-style-type: none"> • At least once a month. • Before putting into service when the crane has been idle one month or more. • Twice a year for standby cranes.
Safety devices for: • Malfunction.	
Hooks for: • Deformation. • Chemical damage. • Cracks. • Wear.	

PROPOSED

Items to Check	How Often
Rope reeving for: <ul style="list-style-type: none"> • Compliance with manufacturer's recommendations. 	
Electrical equipment for: <ul style="list-style-type: none"> • Malfunction. • Deterioration. • Dirt. • Moisture. 	
Tires for: <ul style="list-style-type: none"> • Inflation pressure. • Cuts. • Loose nuts. 	

Items to Check	How Often
• Accuracy.	<ul style="list-style-type: none"> • As recommended by the manufacturer; OR <ul style="list-style-type: none"> • More frequently, if any of the following conditions call for it: <ul style="list-style-type: none"> – Activity. – Severity of service. – Environmental conditions.
Power plants: <ul style="list-style-type: none"> • Proper performance. • Compliance with safety requirements. 	
Chain drive sprockets for: <ul style="list-style-type: none"> • Wear. • Chain stretch. 	
Steering, braking, and locking devices for: <ul style="list-style-type: none"> • Malfunction. 	
Hydraulic and pneumatic hose, fittings, and tubing for: <ul style="list-style-type: none"> • Evidence of leakage at the surface of the flexible hose or its junction with metal end couplings. • Blistering or abnormal deformation to the outer covering of the hydraulic or pneumatic hose. • Leakage at threaded or clamped joints that cannot be eliminated by normal tightening or recommended procedures. • Evidence of excessive abrasion or scrubbing on the outer surface of a hose, rigid tube, or fitting. 	
Hydraulic and pneumatic pumps and motors for: <ul style="list-style-type: none"> • Loose bolts or fasteners. • Leaks at joints between sections. • Shaft seal leaks. • Unusual noises or vibration. • Loss of operating speed. • Excessive heating of the fluid. 	

NEW SECTION

WAC 296-831-33015 Perform periodic inspections on mobile cranes.

You must:

- Make sure a designated person conducts periodic inspections as follows:
 - Inspect all items listed in both Table 300-1, Frequent Inspection Checklist, and Table 300-2, Periodic Inspection Checklist.
 - Carefully examine any identified deficiencies to determine whether they constitute a safety hazard.
- Make sure the crane is not used until any hazardous conditions found during the inspection have been corrected.

Table 300-2

Periodic Inspection Checklist for Mobile Cranes

Items to Check	How Often
Deformed, cracked, or corroded members in the crane structure and boom.	<ul style="list-style-type: none"> • At least once a year; OR
Bolts and rivets for tightness.	
Sheaves and drums for: <ul style="list-style-type: none"> • Cracks. • Wear. 	
Parts such as pins, bearings, shafts, gears, rollers, and locking devices for: <ul style="list-style-type: none"> • Wear. • Cracks. • Distortion. 	
Brake and clutch systems for: <ul style="list-style-type: none"> • Wear. 	
Indicators (load, boom angle, etc) for:	

PROPOSED

Items to Check	How Often
<ul style="list-style-type: none"> • Loss of pressure. 	
Hydraulic and pneumatic valves for: <ul style="list-style-type: none"> • Cracks in valve housing. • Improper return of spool to neutral position. • Leaks at spools or joints. • Sticking spools. • Failure of relief valves to attain or maintain correct pressure setting. • Relief valve pressures. 	
Hydraulic and pneumatic cylinders for: <ul style="list-style-type: none"> • Drifting caused by fluid leaking across piston. • Rod seals leaking. • Leaks at welded joints. • Scored, nicked, or dented cylinder rods. • Dented case (barrel). • Loose or deformed rod eyes or connecting joints. 	
Hydraulic filters for: <ul style="list-style-type: none"> • Evidence of rubber particles. • Metal chips or pieces on the filter. 	

NEW SECTION

WAC 296-831-33020 Inspect wire rope for mobile cranes regularly.

You must:

- Make sure wire rope inspections are conducted by a designated person as described by Table 300-3.
- Do one of the following if the inspection shows damaged wire rope:
 - Remove wire rope from service.
 - Perform a more detailed inspection as described in Table 300-3.

Table 300-3

Wire Rope Inspection Checklist

Items to Check:	How Often:
Running ropes for: <ul style="list-style-type: none"> • Distortion of the rope such as kinking, crushing, unstranding, birdcaging, main strand displacement, or core protrusion. • General corrosion. • Broken or cut strands. • Number, distribution, and type of visible broken wires. • Core failure in rotation resistant ropes. 	At least once a month: More often as the rope begins to wear.
The entire length of wire rope for: <ul style="list-style-type: none"> • Distortion of the rope, such as kinking, crushing, unstranding, birdcaging, main strand displacement, or core protrusion. • General corrosion. • Broken or cut strands. • Number, distribution, and type of visible broken wires. • Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires. • Severely corroded or broken wires at end connections. 	At least once a year. Note: Wire rope inspections do not need to be at equal calendar intervals, and should be more frequent as the rope gets older.

NEW SECTION

WAC 296-831-33025 Replace wire rope as required.

You must:

- Make sure wire rope is replaced when it shows ANY of the following:

- One outer wire broken at the contact point with the core of the rope, which protrudes or loops out from the rope structure.
 - Wear of one-third the original diameter of outside individual wires.
 - Kinking, crushing, birdcaging, or any other damage resulting in distortion of rope structure.
 - Evidence of heat damage from any cause.
 - **Running rope with:**
 - Six randomly distributed broken wires in one lay.
 - Three broken wires in one strand in one lay.
 - **Standing rope:**
 - With more than two broken wires in one lay in sections beyond end connections.
 - With more than one broken wire at an end connection.
 - **Rotation resistant rope:**
 - With two randomly distributed broken wires in six rope diameters.
 - With four randomly distributed broken wires in thirty rope diameters.
 - Any ropes if the reduction from the nominal diameter of the rope is greater than shown in Table 300-6.
- You must:**
- Have a qualified person determine when to replace wire rope:
 - Immediately.
 - At the end of the work shift.
 - Before the next use of the crane.
 - Make sure replacement rope and connections are the same size, type, grade, construction and strength as that specified by the hoist manufacturer, unless the rope, crane or hoist manufacturer, or a qualified person specifies otherwise.

Table 300-4

Allowed Reduction from Nominal Diameter

Nominal Diameter	Maximum Allowable Reduction From Rope Diameter
Up to 5/16 in. (8 mm)	1/64 in. (0.4 mm)
Over 5/16 in. to 1/2 in. (13 mm)	1/32 in. (0.8 mm)
Over 1/2 in. to 3/4 in. (19 mm)	3/64 in. (1.2 mm)
Over 3/4 in. to 1 1/8 in. (29 mm)	1/16 in. (1.6 mm)
Over 1 1/8 in. to 1 1/2 in. (38 mm)	3/32 in. (2.4 mm)

NEW SECTION

WAC 296-831-33030 Maintain and store wire rope for mobile cranes safely.

You must:

- Unreel or uncoil wire rope as recommended by the manufacturer. Avoid twisting or kinking the rope.
- Take the following precautions to prevent wire rope strands from unraveling before you cut the rope:
 - For preformed rope, place one seizing on each side of the cut.
 - For nonpreformed rope 7/8 inch in diameter or smaller, place two seizings on each side of the cut.

- For nonpreformed rope 1 inch in diameter or larger, place three seizings on each side of the cut.
 - Avoid dragging the rope in dirt or around objects that can scrape, nick, crush, or make sharp bends in the rope.
 - Make sure any lubricant used:
 - Is compatible with the original lubricant.
 - Doesn't hinder the visual inspection of the rope.

Note: Wire rope should be maintained in a well-lubricated condition, giving special attention to sections that are hidden.

NEW SECTION

WAC 296-831-33035 Refuel mobile cranes properly.

You must:

- Refuel equipment as follows:
 - Make sure the engine is turned off before refueling.
 - When using portable containers for refueling, make sure only an approved safety-type can with an automatic closing cap and flame arrester is used.

NEW SECTION

WAC 296-831-33040 Establish and follow safe maintenance and repair procedures for mobile cranes.

You must:

- (1) Make sure only designated persons perform maintenance tasks including adjusting, repairing, and replacing crane parts.
- (2) Make sure the following precautions, when they apply, are taken **before** performing adjustments or repairs on a crane:
 - Move the crane to a location where it will cause the least amount of interference with other equipment.
 - Place controllers in the "OFF" or "neutral" position.
 - Take steps to make sure the crane cannot be accidentally started.
 - Place warning or "out of order" signs on the crane controls.
 - Lower the boom to the ground if possible.
 - If not possible, secure the boom against dropping.
 - Relieve hydraulic oil pressure from all hydraulic circuits, when working on hydraulic components.
 - Use blue flag protection for locomotive cranes.
- (3) Make sure the following things are done **before** returning the crane to service after making adjustments and repairs:
 - Reinstall all guards.
 - Remove trapped air from the hydraulic system, if required.
 - Reactivate safety devices.
 - Remove maintenance equipment.
 - Have authorized personnel remove signs or flags.

NEW SECTION

WAC 296-831-33045 Repair or replace hooks on mobile cranes as required.

You must:

- Make sure a qualified person determines if a damaged hook needs to be replaced or can be repaired.
- Repair or replace a hook when it shows:
 - Cracks, nicks or gouges.
 - Wear of more than ten percent of the original sectional dimension, or as recommended by the manufacturer.
 - A bend or twist exceeding ten degrees from the plane of the unbent hook.
 - An increase in the throat opening of more than fifteen percent of the original sectional dimension, or as recommended by the manufacturer.
- Follow these requirements when repairing a hook:
 - Only a designated person can repair cracks, nicks and gouges.
 - Grind longitudinally.
 - Follow the contour of the hook.
 - The dimension of the hook must NOT be reduced more than ten percent of its original value, unless otherwise recommended by the manufacturer.

NEW SECTION**WAC 296-831-33050 Perform testing on repaired or altered cranes.****You must:**

- Make sure a rated load test is performed on cranes whose load-bearing parts have been repaired or altered.
 - A written report must be prepared and kept on file, showing test procedures.
 - If load tests are done, loads must not exceed one hundred ten percent of the manufacturer's load rating.

NEW SECTION**WAC 296-831-340 Operating mobile cranes.****Summary:****Your responsibility:**

To make sure mobile cranes are operated safely.

You must:

Allow mobile cranes to be operated only by specific people

WAC 296-831-34005.

Make sure mobile crane operators pass examinations and evaluations

WAC 296-831-34015.

Attach the load correctly on mobile cranes

WAC 296-831-34016.

Operate mobile cranes safely

WAC 296-831-34020.

Move the crane correctly

WAC 296-831-34025.

IMPORTANT:

If you operate your equipment near power lines, you will need to follow the requirements in chapter 296-24 WAC, Part L.

NEW SECTION**WAC 296-831-34005 Allow mobile cranes to be operated only by specific people.****You must:**

- Make sure only these people operate a crane:
 - Designated persons who have successfully passed the examinations detailed in WAC 296-831-34015.
 - Trainees under the direct supervision of a designated person.
 - Crane inspectors.
 - Maintenance and test personnel, with the knowledge of the operator or other designated person.

NEW SECTION**WAC 296-831-34015 Make sure mobile crane operators pass examinations and evaluations.****You must:**

- Make sure operators successfully pass a written and verbal test that demonstrates their ability to correctly use the crane load/capacity charts.

Note: This test must cover the different crane configurations the operator will encounter. Written exams can be administered by either the employer or a third party.

You must:

- Make sure operators successfully pass a written examination that covers:
 - Operational characteristics for the type of crane.
 - Performance specifications for the type of crane.
 - Crane controls.
 - Responses to emergencies such as fire, contact with power lines, loss of stability or control malfunction.

Exemption: Operators of articulating boom cranes are not required to pass written exams.

- Make sure operators demonstrate the ability to read, understand and apply:

- Load capacity charts.
- Operation manuals.
- Maintenance manuals.
- Emergency procedures.
- Applicable safety regulations.

- Make sure operators successfully pass a practical operating examination for the specific type of crane they will operate. This test must include:

- Prestart inspection.
- Familiarity with crane controls.
- Operating procedures.
- Maneuvering skills.
- Shutdown.
- Poststart inspection.
- Securing procedures.

NEW SECTION**WAC 296-831-34016 Attach the load correctly on mobile cranes.****You must:**

- (1) Make sure the load is within the specifications of the load-rating chart, except for load testing.

(2) Make sure the crane is level, blocked properly, and cribbing is in place, where necessary.

(3) Make sure the load lines and attachments meet the following:

- Keep the hoist rope from kinking or wrapping around the load.
- Keep multiple part lines from twisting around each other.
- Bring the hook over the load in a way that prevents swinging.
- Attach the load to the hook with slings or other approved devices.
- Secure the load and balance it before lifting more than a few inches.
- Properly seat the rope on the drum and in the sheaves, if there is a slack rope condition.

(4) Make sure tag or restraint lines are used when rotation of the load is hazardous.

(5) One designated person is responsible for the operation when two or more cranes are used. That person must:

- Analyze the operation.
- Instruct all personnel about the proper positioning, rigging, and moving of the load.

NEW SECTION

WAC 296-831-34020 Operate mobile cranes safely.

You must:

(1) Make sure the operator tests the controls at the start of each shift.

- If any controls don't operate properly, they must be adjusted or repaired before beginning operations.

(2) Make sure the operator tests the brakes every time a load approaching the rated load is handled by raising the load a few inches and then applying the brakes.

(3) Make sure the crane operator consults with the supervisor whenever there are any safety questions before handling the load.

(4) Make sure the operator doesn't engage in any practice that diverts their attention while actually engaged in operating equipment.

(5) Make sure during lifting:

- The load doesn't suddenly accelerate or decelerate.
- The load doesn't contact any obstructions.

(6) Make sure the operator engages the boom-hoist pawl or other locking device when operating at a fixed radius.

(7) Make sure the operator knows when ropes are being handled on a winch head.

- Make sure the operator stays within convenient reach of the power unit control lever while the winch head is being used.

(8) Make sure the operator activates the positive controllable means to keep the drum from rotating in the lowering direction when the load is going to remain suspended for a considerable length of time.

(9) Make sure the operator rotates the crane:

- Without sudden starts or stops.
- At a speed that does not cause the load to swing out beyond a controllable radius.

(10) Make sure the operator does NOT perform side-pulls, except when loads are freely suspended.

(11) Make sure the operator does not allow anyone to ride on the load or hook.

(12) Make sure the operator does not lower the boom or the load to where less than two full wraps of rope are on the drum.

(13) Make sure the operator does not use rail clamps as a way of restraining a locomotive crane from tipping.

(14) Make sure the ballast or counterweight recommended by the manufacturer is not exceeded.

(15) Make sure outriggers and stabilizers, when required, are used according to manufacturer's recommendations.

- Blocking and cribbing used to support outriggers and stabilizers must be:
 - Strong enough to prevent crushing.
 - Free from defects.
 - Big enough to support their load.

(16) Make sure the operator does the following any time the power fails:

- Sets all brakes and locking devices.
- Moves all clutches and power controls to the off or neutral position.
- Sets down any suspended load under brake control, if practical.

(17) Make sure the operator does not leave the controls while a load is suspended.

Exemption: Articulating cranes are exempt from this requirement when specific precautions have been taken to eliminate employee exposure to hazards.

NEW SECTION

WAC 296-831-34025 Move the crane correctly. Moving the crane with a load.

You must:

• Make sure a designated person determines and controls the safety of moving a crane with a load. They are responsible for making decisions about:

- Position of the load.
- Boom location.
- Ground support.
- Travel route.
- Speed of movement.

Moving the crane without a load.

You must:

- Make sure, when the crane is moved over roads:
 - The crane is moved according to the manufacturer's recommendation.
 - The boom is carried in line with the direction of motion.
 - The superstructure is secured against rotation, unless:
 - There is an operator in the cab when turning.
 - The boom is supported on a dolly.
 - The empty hook cannot swing freely.

PROPOSED

WSR 03-14-097

PROPOSED RULES

HEALTH CARE AUTHORITY

(Basic Health Administration)

[Order 02-01—Filed June 30, 2003, 3:29 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-10-126.

Title of Rule: Revising basic health rules regarding eligibility based on income and other factors, to ensure that enrollment and subsidy levels are based on an accurate appraisal of the person's circumstances.

Purpose: These revisions will allow basic health to make a more accurate determination of a person's premium responsibility and their eligibility for the program.

Statutory Authority for Adoption: RCW 70.47.050.

Statute Being Implemented: RCW 70.47.020(4) and 70.47.060 (5) and (9).

Summary: This draft rule revises the definition of income to include some sources that were previously excluded and to clarify others. It also includes clarification of Washington state residence, to exclude those who leave the state with no intent to return or who are out of state for more than three consecutive months (allows an exception to this provision for dependent students attending school full-time out of state).

Reasons Supporting Proposal: The intent of these revisions is to ensure that those persons receiving basic health coverage are eligible for the program.

Name of Agency Personnel Responsible for Drafting: Rosanne Reynolds, Lacey, Washington, (360) 923-2948; **Implementation and Enforcement:** Kathy Eberle, Lacey, Washington, (360) 412-4307.

Name of Proponent: Washington State Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This draft rule revises the definition of income, to include some sources that previously were not included and to clarify others. Some are not changed, only regrouped to be in a more logical order. The rule also clarifies that those who leave Washington state with no intent to return or who are out of state for more than three consecutive months will not be considered Washington residents. An exception is made for dependents who are attending school full-time out of state and are out of Washington state during the school year.

These changes will allow basic health to make a more accurate determination of a person's premium responsibility and their eligibility for the program.

Proposal Changes the Following Existing Rules: Revises the definition of income to include some sources that previously were not included and clarifies that a person who leaves Washington state with no intent to return or who is out of the state for more than three consecutive months will not be considered a Washington state resident, with the exception of dependent students attending school out of state.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Health Care

Authority is not required by chapter 19.85 RCW to prepare a small business economic impact statement. There will be little, if any, cost to small business.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 does not apply to the Health Care Authority rules unless requested by the Joint Administrative Rules Review Committee or applied voluntarily.

Hearing Location: 676 Woodland Square Loop S.E., West Wing, Conference Room W-302, 3rd Floor, Lacey, WA, on August 6, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Nikki Johnson by July 28, 2003, TDD (888) 923-5622 or (360) 923-2805.

Submit Written Comments to: Rosanne Reynolds, P.O. Box 42686, Olympia, WA 98504-2686, e-mail Rrey107@hca.wa.gov, fax (360) 923-2605, by August 6, 2003.

Date of Intended Adoption: August 7, 2003.

June 30, 2003

Melodie Bankers

Rules Coordinator

AMENDATORY SECTION (Amending Order 02-06, filed 12/3/02, effective 1/1/03)

WAC 182-25-010 Definitions. The following definitions apply throughout these rules.

(1) "Administrator" means the administrator of the Washington state health care authority (HCA) or designee.

(2) "Appeal procedure" means a formal written procedure for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction.

(3) "Basic health plan" (or BHP) means the system of enrollment and payment for basic health care services administered by the administrator through managed health care systems.

(4) "BHP plus" means the program of expanded benefits available to children through coordination between the department of social and health services (DSHS) and basic health plan. Eligibility for BHP Plus is determined by the department of social and health services, based on Medicaid eligibility criteria. To be eligible for the program children must be under age nineteen, with a family income at or below two hundred percent of federal poverty level, as defined by the United States Department of Health and Human Services. They must be Washington state residents, not eligible for Medicare, and may be required to meet additional DSHS eligibility requirements.

(5) "Co-payment" means a payment indicated in the schedule of benefits which is made by an enrollee to a health care provider or to the MHCS.

(6) "Covered services" means those services and benefits in the BHP schedule of benefits (as outlined in the member handbook issued to the enrollee, or to a subscriber on behalf of the enrollee), which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments.

(7) "Disenrollment" means the termination of covered services in BHP for a subscriber and dependents, if any.

(8) "Effective date of enrollment" means the first date, as established by BHP, on which an enrollee is entitled to receive covered services from the enrollee's respective managed health care system.

(9) "Dependent" means:

(a) The subscriber's lawful spouse, not legally separated, who resides with the subscriber; or

(b) The unmarried child of the subscriber or the subscriber's dependent spouse, whether by birth, adoption, legal guardianship, or placement pending adoption, who is:

(i) Younger than age nineteen, and who has not been relinquished for adoption by the subscriber or the subscriber's dependent spouse; or

(ii) Younger than age twenty-three, and a registered student at an accredited secondary school, college, university, technical college, or school of nursing, attending full time, other than during holidays, summer and scheduled breaks; or

(c) A person of any age who is incapable of self-support due to disability, and who is the unmarried child of the subscriber or the subscriber's dependent spouse, whether by birth, adoption, or legal guardianship; or

(d) An unmarried child younger than age nineteen who is residing with the subscriber under an informal guardianship agreement. For a child to be considered a dependent of the subscriber under this provision:

(i) The guardianship agreement must be signed by the child's parent;

(ii) The guardianship agreement must authorize the subscriber to obtain medical care for the child;

(iii) The subscriber must be providing at least fifty percent of the child's support; and

(iv) The child must be on the account for BHP coverage.

(10) "Eligible full-time employee" means an employee who meets all eligibility requirements in WAC 182-25-030 and who is regularly scheduled to work thirty or more hours per week for an employer. The term includes a self-employed individual (including a sole proprietor or a partner of a partnership, and may include an independent contractor) if the individual:

(a) Is regularly scheduled to work thirty hours or more per week; and

(b) Derives at least seventy-five percent of his or her income from a trade or business that is licensed to do business in Washington.

Persons covered under a health benefit plan pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements.

(11) "Eligible part-time employee" means an employee who meets all the criteria in subsection (10) of this section, but who is regularly scheduled to work fewer than thirty hours per week for an employer.

(12) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

(13) "Employer" means an enterprise licensed to do business in Washington state, as defined by RCW 50.04.080, with employees in addition to the employer, whose wages or salaries are paid by the employer.

(14) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in BHP, and for whom applicable premium payments have been made.

(15) "Family" means an individual or an individual and spouse, if not legally separated, and dependents. For purposes of eligibility determination and enrollment in the plan, an individual cannot be a member of more than one family.

(16) "Financial sponsor" means a person, organization or other entity, approved by the administrator, that is responsible for payment of all or a designated portion of the monthly premiums on behalf of a subscriber and any dependents.

(17) "Gross family income" means total cash receipts, as defined in (a) of this subsection, before taxes, from all sources, for subscriber and dependents whether or not they are enrolled in BHP, with the exceptions noted in (b) of this subsection. An average of documented income received over a period of several months will be used for purposes of eligibility determination, unless documentation submitted confirms a change in circumstances so that an average would not be an accurate reflection of current income. A twelve-month average will be used when calculating gambling income, lump-sum payments, and income from capital gains. A twelve-month history of receipts and expenses will be required for calculating self-employment or rental income unless the applicant or enrollee has not owned the business for at least twelve months.

(a) Income includes:

(i) ~~((Money))~~ Wages, tips and salaries before any deductions;

(ii) Net receipts from nonfarm self-employment (receipts from a person's own ~~((unincorporated))~~ business, professional enterprise, or partnership, after deductions for business expenses). In calculating net self-employment income, deductions will not be allowed for noncash-flow items such as depreciation, amortization, or home office costs, and a net loss from this calculation will not be used to offset other income sources;

(iii) Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or share-cropper, after deductions for farm operating expenses). In calculating net self-employment income, deductions will not be allowed for noncash-flow items such as depreciation, amortization, or home office costs, and a net loss from this calculation will not be used to offset other income sources;

(iv) ~~((Regular))~~ Periodic payments from Social Security, railroad retirement, military pension or retirement pay, military disability pensions, military disability payments, government employee pensions, private pensions, unemployment compensation, and strike benefits from union funds((;));

(v) One-time insurance payments other than reimbursement for a loss, periodic insurance or annuity payments, and compensation for injury other than reimbursement for medical costs, including workers' compensation((,- veterans' payments,));

(vi) Public assistance, alimony, child support, and military family allotments((,- private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments));

~~((+))~~ (vii) Work study, assistantships, or training stipends;

~~((vi))~~ (viii) Dividends and interest accessible to the enrollee without a penalty for early withdrawal;

~~((vii))~~ (ix) Net rental income, net royalties, ~~((periodic receipts from estates or trusts,))~~ and net gambling or lottery winnings;

(x) Lump sum inheritances and periodic receipts from estates or trusts; and

(xi) Capital gains.

(b) Income does not include the following types of money received:

~~((i))~~ (i) ~~((Capital gains;~~

~~((ii))~~ Any assets drawn down as withdrawals from a bank, the sale of property, a house or a car;

~~((iii))~~ (ii) Tax refunds, gifts, loans ~~((, lump sum inheritances, one-time insurance payments, or compensation for injury (except workers' compensation))~~);

~~((iv))~~ (iii) Noncash ~~((benefits))~~ receipts, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, goods or services received due to payments a trust makes to a third party, and such noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, state supplemental income that is specifically dedicated to reimburse for services received, and housing assistance;

~~((v))~~ (iv) Income earned by dependent children with the exception of distributions from a corporation, partnership, or business;

~~((vi))~~ (v) Income of a family member who resides in another household when such income is not available to the subscriber or dependents seeking enrollment in BHP;

~~((vii))~~ (vi) College or university scholarships, grants, and fellowships ~~((and assistantships))~~;

~~((viii))~~ (vii) Payments from the department of social and health services adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145;

~~((ix))~~ (viii) Documented child care expenses for the care of a dependent child of a subscriber may be deducted (at a rate set by the administrator and consistent with Internal Revenue Service requirements) when calculating gross family income. To qualify for this deduction~~((;))~~;

(A) The subscriber and the spouse listed as a dependent on the account, if any, must be employed or attending school full-time during the time the child care expenses were paid~~((;))~~; and

(B) Payment may not be paid to a parent or ~~((step parent))~~ stepparent of the child or to a dependent child of the subscriber or his/her spouse.

(18) "Home care agency" means a private or public agency or organization that administers or provides home care services directly or through a contract arrangement to ill, disabled, or infirm persons in places of temporary or permanent residence, and is licensed by the department of social and health services (DSHS) as a home care agency. In order to qualify, the agency must be under contract with one of the following DSHS programs: Chore, Medicaid Personal Care, Community Options Program Entry System (COPES) or Respite Care (up to level three).

(19) "Institution" means a federal, state, county, city or other government correctional or detention facility or government-funded facility where health care historically has been provided and funded through the budget of the operating agency, and includes, but is not limited to: Washington state department of corrections institutions; federal, county and municipal government jail and detention institutions; Washington state department of veterans affairs soldiers' and veterans' homes; department of social and health services state hospitals and facilities and juvenile rehabilitation institutions and group homes. An institution does not include: Educational institutions; government-funded acute health care or mental health facilities except as provided above; chemical dependency facilities; and nursing homes.

(20) "Institutionalized" means to be confined, voluntarily or involuntarily, by court order or health status, in an institution, as defined in subsection (19) of this section. This does not include persons on work release or who are residents of higher education institutions, acute health care facilities, alcohol and chemical dependency facilities, or nursing homes.

(21) "Insurance broker" or "agent" means a person who is currently licensed as a disability insurance broker or agent, according to the laws administered by the office of the insurance commissioner under chapter 48.17 RCW.

(22) "Managed health care system" (or "MHCS") means:

(a) Any health care organization (including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof) which has entered into a contract with the HCA to provide basic health care services; or

(b) A self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(23) "Maternity benefits through medical assistance," also known as S-Medical, means the coordinated program between BHP and DSHS for eligible pregnant women. This program includes all Medicaid benefits, including maternity coverage. Eligible members must be at or below one hundred eighty-five percent of the federal poverty level. Eligibility for this program is determined by DSHS, based on Medicaid eligibility criteria.

(24) "Medicaid" means the Title XIX Medicaid program administered by the department of social and health services, and includes the medical care programs provided to the "categorically needy" and the "medically needy" as defined in chapter 388-503 WAC.

(25) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(26) "Nonsubsidized enrollee" or "full premium enrollee" means an individual who enrolls in BHP, as the subscriber or dependent, and who pays or on whose behalf is paid the full costs for participation in BHP, without subsidy from the HCA.

(27) "Open enrollment" means a time period designated by the administrator during which enrollees may enroll additional dependents or apply to transfer their enrollment from one managed health care system to another.

(28) "Participating employee" means an employee of a participating employer or home care agency who has met all the eligibility requirements and has been enrolled for coverage under BHP.

(29) "Participating employer" means an employer who has been approved for enrollment in BHP as an employer group.

(30) "Preexisting condition" means any illness, injury or condition for which, in the six months immediately preceding an enrollee's effective date of enrollment in BHP:

(a) Treatment, consultation or a diagnostic test was recommended for or received by the enrollee; or

(b) Medication was prescribed or recommended for the enrollee; or

(c) Symptoms existed which would ordinarily cause a reasonably prudent individual to seek medical diagnosis, care or treatment.

(31) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which an individual, their employer or a financial sponsor makes to BHP for subsidized or nonsubsidized enrollment in BHP.

(32) "Program" means subsidized BHP, nonsubsidized BHP, BHP Plus, or maternity benefits through medical assistance.

(33) "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the state of Washington.

(34) "Rate" means the amount, including administrative charges and any applicable premium and prepayment tax imposed under RCW 48.14.020, negotiated by the administrator with and paid to a managed health care system, to provide BHP health care benefits to enrollees.

(35) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which an enrollee shall be entitled to receive from a managed health care system in exchange for payment of premium and applicable co-payments, as described in the member handbook.

(36) "Service area" means the geographic area served by a managed health care system as defined in its contract with HCA.

(37) "Subscriber" is a person who applies to BHP on his/her own behalf and/or on behalf of his/her dependents, if any, who meets all applicable eligibility requirements, is enrolled in BHP, and for whom the monthly premium has been paid. Notices to a subscriber and, if applicable, a financial sponsor or employer shall be considered notice to the subscriber and his/her enrolled dependents.

(38) "Subsidized enrollee" or "reduced premium enrollee" means an individual who enrolls in BHP, either as the subscriber or an eligible dependent, whose current gross family income does not exceed twice the federal poverty level as adjusted for family size and determined annually by the federal Department of Health and Human Services, and who receives a premium subsidy from the HCA. To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, "subsidized enrollee" also means an individual who enrolls in BHP, either as the subscriber or an eligible dependent, whose current

gross family income is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal Department of Health and Human Services, and who receives a premium subsidy from the HCA.

(39) "Subsidy" means the difference between the amount of periodic payment the HCA makes to a managed health care system on behalf of a subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(40) "Washington state resident" or "resident," for purposes of this chapter, means a person who physically resides and maintains a residence in the state of Washington. An enrollee who leaves Washington state with no intent to return or who leaves Washington state for more than three consecutive months will be considered to no longer be a Washington resident, with the following exception. A dependent child who meets the requirements of subsection (9)(b)(ii) of this section and who is attending school out-of-state may be considered a Washington resident if he or she is out-of-state during the school year but continues to maintain his or her residence in Washington.

WSR 03-14-100

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed June 30, 2003, 3:41 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-056.

Title of Rule: WAC 388-32-0025 Who may receive FRS services? and 388-32-0030 What FRS services does the department provide?

Purpose: The Children's Administration's Division of Program and Policy is amending these rules for family reconciliation services (FRS), WAC 388-32-0025 and 388-32-0030. The purpose is to redefine the time frames for the delivery and completion of services within the FRS program's reduced budget allocation, and to allow for greater flexibility in the delivery of services.

Statutory Authority for Adoption: Chapter 13.32A RCW, RCW 74.08.090.

Statute Being Implemented: Chapter 13.32A RCW, RCW 74.13.031.

Summary: The FRS program eligibility criteria and service parameters, as contained in WAC 388-32-0025 and 388-32-030 required revisions due to legislative budget reductions.

Reasons Supporting Proposal: The Children's Administration was required by the state legislature in the 2002 supplemental budget (chapter 371, Laws of 2002) to reduce the FRS program by \$1.68 million, effective July 1, 2002. This reduction resulted in a loss of staff FTEs, and in the funding for related contracted services. Altering the time frames for the delivery and completion of FRS services to a family

PROPOSED

PROPOSED

would allow for greater flexibility in the delivery of services. Revised contracts as a result of the funding restraints became active January 1, 2003. The WAC governing this portion of the FRS program requires revision to maintain the program within its budgetary allotment. Implementation of this directive requires amendment of WAC 388-32-0025 and 388-32-0030.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Mowrey, Children's Administration, DSHS-OB2, P.O. Box 45710, Olympia, WA 98504-5710, (360) 902-8007.

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 388-32-0025 defines the eligibility criteria for the FRS. WAC 388-32-0030 provides an explanation of the services and the service parameters provided under the FRS program.

Both rules underscore that the FRS program is a short-term, crisis counseling program, providing services to run-away youth, and youth in conflict with their families. The rules make it clear that the FRS program does not provide long-term counseling/therapy services to very dysfunctional, multisystem youth and their families.

Proposal Changes the Following Existing Rules: (1) Clarifies the eligibility for FRS; (2) reduces the maximum number of service hours provided to families; (3) increases the maximum length of time to complete the allowable service hours; and (4) sets limits on the number of times a family may access FRS services.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The Department of Social and Health Services' Division of Program and Policy is proposing amendments to chapter 388-32 WAC, Child welfare services to prevent out-of-home placement and achieve family reconciliation.

The purpose of these two sections of chapter 388-32 WAC, Child welfare services to prevent out-of-home placement and achieve family reconciliation, is to outline the rules for the FRS program administered by the Children's Administration.

The agencies and individuals that are impacted by these rules include:

Small Business Name	Small Business Name
YFA Connections	Jennifer Smith
Baker Street Ministries	Compassionate Ministries
Grayson & Associates	Harmony Plus Counseling
Guerin & Associates	CIELO Project
Northwest Youth Services	Willipa Counseling
Youthnet	Evergreen Counseling Services
Working Choices	Karla Gates
Carmela Washington	Legacy Counseling
Roland Tam Sing	Healing Therapy

Maple Griffith	Eric Currier
Good Samaritan	Northwest Family Therapy Institute
Answers	Rogers Counseling Center
Working Choices	Psychological Consultants
Advantage Plus Counseling	Valdez & Associates
FMAC Counseling	Personal Parenting & Assessment
Healing Therapy	

The proposed amendments to WAC 388-32-0025 include:

- Clarifying that the FRS program provide family reconciliation services to adolescents age thirteen through seventeen years of age and their families;
- Clarifying the situations where it is inappropriate to provide FRS;
- Eliminating the provision of FRS services for post-adoption cases, in instances where an agency is concurrently providing post-adoption services.

The proposed amendments to WAC 388-32-0030 include:

- Revising the time frame the assigned local DCFS FRS social worker has to contact the family requesting family reconciliation services;
- Reducing the number of hours of counseling that FRS Phase II providers may deliver to families, as a result of the 2002 legislature imposing a \$1.68 million reduction to the FRS programs, effective July 1, 2002.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT: Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute defines small businesses as those for-profit businesses that employ fifty or fewer people and are independently owned. Nearly all the currently contracted FRS Phase II service providers meet the definition of a small business.

Cost Impact on Small Businesses: None of our currently contracted FRS Phase II service providers will be financially impacted by these proposed regulations. That is, a new RFP was done in the fall of 2002 to solicit for new FRS Phase II service providers. New contracts were not issued in July 2002, for FY 2003 FRS Phase II services; rather, they were extended until December 31, 2002, at which time new contracts were issued to the successful bidders. These contracts, which became effective January 1, 2003, incorporated all the chapter 388-32 WAC proposed revisions. Permanent adoption of these rules will obviously have a neutral impact upon our contracted FRS Phase II service providers.

Feedback from our service providers has been that the regulations, per their new contracts, have not caused them any negative economic impact; rather, it has aided their financial situation. Previously, their contracts required them to offer up to fifteen hours of crisis counseling to families, within a thirty-day period. The new contracts only require them to offer up to twelve hours of counseling, but spread over a forty-five-day period.

A reduction in the allowable billable service hours theoretically could result in lost revenue for providers. However,

providers report that the thirty-day time limit typically made it very difficult for them to utilize all fifteen allowable hours. Under the new rules, as reflected in their contracts effective since January 1, extending the time out to forty-five days has to date proven very beneficial to both the providers and the families they are engaging in Phase II counseling services.

Involvement of Small Businesses: Subsequent to the 2002 legislature's \$1.68 million reduction in funding for the FRS program, an FRS redesign committee was formed.

The initial task of the committee was to conduct focus groups statewide, to gather input from the community on before embarking on the redesign. All contracted FRS Phase II service providers were sent invitations to attend the focus groups.

Upon completion of the focus groups, including documentation of the information obtained from the groups, the redesign committee began a series of meetings to formally redesign the FRS program. The committee was comprised of CA FRS social workers and representatives from the pool of contracted FRS Phase II service providers.

The contracted service providers therefore played a significant role in designing the new FRS service parameters which formed the basis for these proposed WAC revisions and the contracts effective January 1, 2003.

EVALUATION OF PROBABLE COSTS AND PROBABLE BENEFITS: Since the proposed amendments do not "make significant amendments to a policy or regulatory program" (see RCW 34.05.328(5)(c)(iii)), the CA/Division of Program and Policy has determined that the proposed rules are not "significant" as defined by the legislature. Therefore, under RCW 34.05.328 (5)(b)(iv), this proposed chapter is exempt from needing a cost-benefit analysis. However, we believe the proposed rule changes provide significant benefits for the families we serve in the community. These benefits are outlined below.

BENEFITS: Both the families we serve and our contracted FRS Phase II service providers will benefit if the proposed amendments are adopted. Previously, eligible families were able to receive up to fifteen hours of crisis counseling, but the counseling had to be completed within thirty days. However, our service providers often commented that typically they, and the families they were working with, were very hard pressed to utilize all fifteen hours in the prescribed thirty-day time frame. A data base of the average number of crisis counseling hours provided to families over a ten-year period shows that an average of 13.1 hours of counseling hours were used per family. Many service providers have long advised us that an extension of the thirty-day time frame would be far more beneficial than an extension of the counseling hours authorized.

Service providers report that since January 1, 2003, when the extension of the time frame to forty-five days became effective, they have seen a very positive effect in the families they are working with. The extension out to forty-five days allows for a better cause and effect relationship; that is, there is more time for families to put into effect the strategies the counselor advises, experience the effect of those strategies, and have more time to "debrief" and discuss these strategies. The belief is that families will gain better skills,

and be much less likely to have to access FRS services in the future.

Additionally, the proposed revision in WAC 388-32-0025(2) is intended to clarify and strengthen the situations that are ineligible for FRS services. Given that the legislature reduced the FRS program's funding by \$1.68 million, it is imperative that the allocated program funds be utilized in strict adherence to the program's intent, as defined by the legislature. Also, the elimination of eligibility for post-adoption cases already being served by an agency eliminates duplication of services. The legislature never intended open-end eligibility, but the WAC as currently written is somewhat ambiguous.

CONCLUSION: The CA/Division of Program and Policy has given careful consideration to the impact of proposed rules in chapter 388-32 WAC, Child welfare services to prevent out-of-home placement and achieve family reconciliation on small businesses. The CA/Division of Program and Policy, with input from contracted service providers, has concluded that there are no economic impacts associated with compliance to the proposed WAC revisions.

Please contact Jim Mowrey if you have any questions at (360) 902-8007.

A copy of the statement may be obtained by writing to Jim Mowrey, Children's Administration, Division of Program and Policy, P.O. Box 45710, Olympia, WA 98504-5710, phone (360) 902-8007, fax (360) 902-7903.

RCW 34.05.328 does not apply to this rule adoption. The proposed rules do not meet the definition of a significant legislative rule in RCW 34.05.328 (5)(c)(iii). A formal cost-benefit analysis is not required. However, the department has prepared an evaluation of probable benefits of the proposed rules which is incorporated with this notice.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 1, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, delivered to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 5, 2003.

Date of Intended Adoption: Not earlier than August 6, 2003.

June 25, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-32-0025 Who may receive FRS services?
(1) CA provides FRS to ~~((runaways and families in conflict))~~
adolescents, thirteen through seventeen years of age, and their families, in instances where the adolescent has runaway

PROPOSED

and/or is in conflict with his/her family. These populations are defined as follows:

"Families in conflict" means families in which personal or family situations present a serious and imminent threat to the health or stability of the child, which may include an at-risk youth, or family.

"Runaways" means youths who are absent from home for a period of time without parental permission. Services are to actual runaways and not to threatened runaways, unless the threatened runaways meet the definition of families in conflict.

(2) FRS is not provided for any of the following situations, unless the family is seeking an at-risk youth or a child-in-need-of-services (CHINS) family assessment:

(a) The identified youth has not reached his/her thirteenth birthday, or the youth is eighteen years of age or older;

(b) Chronic or long-term multi-problem situations requiring long-term interventions;

~~((b))~~ (c) Custody and marital disputes unless the dispute creates a conflict between the child and parent with physical custody;

~~((e))~~ (d) Families currently receiving counseling services related to the parent-child conflict/relationship from other agencies;

~~((d))~~ (e) Child abuse and neglect cases, unless those cases meet the definition of family in conflict;

~~((e))~~ ; or

(f) Youth receiving foster care or group care services or follow up to those services; and

~~((f))~~ (g) Post-adoption cases still under supervision of an agency, except when those cases meet the definition of families in conflict).

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-32-0030 What FRS services does the department provide? The assigned social worker provides services to develop skills and supports within families to resolve family conflicts, achieve a reconciliation between parent and child, and to avoid out-of-home placement. The services may include, but are not limited to, referral to services for suicide prevention, psychiatric or other medical care, or psychological, financial, legal, educational, or other social services, as appropriate to the needs of the child and family. Typically FRS is limited to a ninety-day period. Children's administration (CA) provides intake/assessment services (IAS).

(1) ~~The ((CA social worker provides intake/assessment services (IAS)-))~~ children's administration's (CA) central intake provides intake services. Youth and/or their families who self-present at a local DCFS office requesting FRS services shall be provided assistance in contacting the appropriate children's administration's intake services to make a formal request for FRS services.

(2) ~~The FRS social worker must ((initiate these short-term counseling sessions within forty-eight hours of the family's request for services))~~ contact the family within twenty-four hours of their assignment to the case, to schedule an

appointment to begin the phase I family interview process. These FRS phase I sessions are intended to defuse the immediate potential for violence, assess problems, and explore options leading to problem resolution.

~~((2))~~ (3) CA or its contractors may provide FRS phase II crisis counseling services for up to ((thirty days within a ninety-day period-

~~(3))~~ six weeks.

(4) Families eligible for ((thirty-day)) FRS phase II crisis counseling are those who, in the opinion of the family and the CA social worker, require more intensive services than those provided through ((IAS-

~~(4))~~ phase I services.

(5) Families must make a commitment to participate in the ((thirty-day)) FRS phase II crisis counseling service and must not concurrently be receiving similar ((family)) counseling services through other agencies or practitioners. At a minimum, there must be a parent and a child willing to participate.

~~((5))~~ Thirty-day)

(6) FRS phase II crisis counseling services may not exceed ((fifteen hours within thirty days)) twelve hours over six weeks. The assigned counselor helps the family develop skills and supports to resolve conflicts. The counselor may refer to resources including medical, legal, ongoing counseling and CPS for problem resolution.

(a) ~~((The CA supervisor may extend thirty-day crisis counseling for an additional thirty days and up to fifteen additional hours of service, subject to availability of funds and the family's continued progress toward resolving conflicts))~~ FRS phase II crisis counseling may not be extended for either additional days or additional hours, except by an exception-to-policy waiver signed by the area administrator.

(b) ~~((The thirty-day))~~ FRS phase II crisis counseling ((is)) services are available a maximum of twice in a lifetime for any one ((child within a)) family. The family must include a parent/guardian who has legal custody of the youth.

WSR 03-14-101
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed June 30, 2003, 3:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-22-071.

Title of Rule: Amending WAC 388-533-1000 First steps childcare program.

Purpose: To ensure consistency with other DSHS administrations' background check policies with the background check central unit (BCCU) and Washington State Patrol. To ensure conformity with the list of criminal activities that determine if a person may provide childcare under all Department of Social and Health Services (DSHS) applicable programs. To update and clarify current policy regarding the first steps childcare program.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.800.

Statute Being Implemented: RCW 74.08.090, 74.09.-800.

Summary: The rules amend language to ensure consistency and conformity with: (1) Other DSHS administrations' background check policies with BCCU and Washington State Patrol; and (2) all DSHS applicable programs for the list of criminal activities that determine if a person is not eligible to provide childcare. In addition, the department is updating and clarifying current policy.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: Lenore Lawrence, P.O. Box 45530, Lacey, WA 98504, (360) 725-1666.

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

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

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

The anticipated effects are:

(1) To reduce confusion and simplify the process for first steps childcare providers' submission of appropriate forms and claims for payment.

(2) To update current rule by removing "children's health" as one of the programs clients must be currently eligible under to receive first steps childcare for their children. (As of October 10, 2002, the children's health program is no longer available.)

(3) To add language to ensure consistency with other DSHS administrations' background check policies with BCCU and Washington State Patrol.

(4) To add language to ensure conformity with all DSHS applicable programs for the list of criminal activities that determine if a person is not eligible to provide childcare.

(5) To update and clarify current policy regarding the first steps childcare program.

Proposal Changes the Following Existing Rules: A reference to the "children's health" program is removed. The proposal adds language to incorporate policies that are consistent with BCCU, Washington State Patrol, and other DSHS applicable programs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the rules and concluded that no new costs will be imposed on small businesses.

RCW 34.05.328 applies to this rule adoption. The department has determined that the rules meet the definition of a "significant legislative rule." The department has prepared a cost benefit analysis (CBA) regarding these rule changes. A copy of the CBA can be obtained from Lenore Lawrence, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45530, Lacey, WA 98504-5530, phone (360) 725-1666, e-mail lawrele@dshs.wa.gov.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 5, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 1, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernax@dshs.wa.gov [fernaax@dshs.wa.gov].

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernax@dshs.wa.gov, by 5:00 p.m., August 5, 2003.

Date of Intended Adoption: Not sooner than August 6, 2003.

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

PROPOSED

AMENDATORY SECTION (Amending WSR 01-15-008, filed 7/6/01, effective 8/6/01)

WAC 388-533-1000 First Steps childcare program.

The purpose of the First Steps childcare program is to fund childcare for children (~~(in order to enable)~~) so that their pregnant or (~~(postpregnancy)~~) postpregnant mothers (~~(to)~~) can access prenatal care or other medical assistance administration (MAA)-covered services.

(1) For the purposes of this section, the following terms and definitions apply:

(a) (~~("Postpregnancy" or "postpartum" means the period of time after the pregnancy ends (includes live birth, still birth, miscarriage or pregnancy termination), through the end of the month that includes the sixtieth day from the end of the pregnancy; and~~

(b)) "Background check central unit (BCCU)" means the centralized unit established by the department of social and health services (DSHS) that performs background checks as directed by the Washington state legislature.

(b) "Finding" means an action taken by the department of social and health services (DSHS) that shows an individual or entity has been found by the department to have abused, neglected, exploited or abandoned a vulnerable person. Findings reported by DSHS or the background check central unit (BCCU) or both are limited to official findings that have been established through legal due process or an administrative hearing process or both.

(c) "First Steps agency" means an entity, public or private, that is contracted with the medical assistance administration (MAA) to provide First Steps program services.

(d) "MAA First Steps childcare authorizers" or "authorizers" means the individuals eligible to authorize First Steps childcare through the First Steps childcare program. Authorizers include maternity support services (MSS) professional/paraprofessional agency staff members, community services office (CSO) social workers or designated staff members, and other MAA-designated professional/paraprofessional persons.

(e) "MAA First Steps childcare coordinator or designee" means the individual designated by MAA to review special needs requests for First Steps childcare through the First Steps childcare program.

(f) "MAA First Steps childcare program manager" means the individual designated by MAA to review all background check cases identified by the background check central unit (BCCU) as "needing further review."

(g) "Postpregnancy" means the period of time after the pregnancy ends (includes live birth, still birth, miscarriage, or pregnancy termination) through the end of the month that includes the sixtieth day from the end of the pregnancy.

(2) First Steps childcare is available for the children of either a managed care or fee-for-service client. Subject to the restrictions and limitations listed in this section, a client is eligible to receive First Steps childcare for her children if she:

(a) Meets one of the following criteria:

(i) Is pregnant; or

(ii) Is within the postpregnancy period.

(b) Is currently eligible under one of the following programs:

(i) Categorically needy program (CNP);

(ii) CNP - emergency medical only; or

(iii) Children's health insurance program (CHIP); ~~((or (iv) Children's health)).~~

(c) Requires one or more of the covered services listed in subsection (4) and (5) of this section;

(d) Demonstrates a need for childcare; and

(e) Shows that no other childcare resources are available.

(3) The following persons are eligible to authorize First Steps childcare, subject to the restrictions and limitations in this chapter and other ~~((published))~~ WAC:

(a) Maternity support services (MSS) professional/paraprofessional agency staff members. See WAC 388-533-0300 (3) and (7);

~~((b) ((Maternity case management (MCM) providers. See WAC 388-533-0350;~~

~~((c))~~ Community services office (CSO) social workers or designated staff members; and

~~((d))~~ ~~((c))~~ Other MAA-designated professional/paraprofessional persons.

(4) First Steps childcare may be authorized for a client's ~~((children))~~ child(ren) during the client's pregnancy or postpregnancy period when the client pursues any of the following covered services for herself or her newborn children:

(a) Childbirth education classes;

(b) Delivery/birth (during the mother's hospitalization);

(c) Dental care;

(d) Hospital procedures;

(e) Laboratory tests;

~~((f) ((Maternity case management (MCM) visits;~~

~~((g))~~ Maternity support services (MSS) visits, including nursing, social work, nutrition, and community health worker visits; ~~((and~~

~~((h))~~ ~~((g))~~ Medical visits; and

(h) Family planning services.

(5) First Steps childcare authorized for a client's ~~((children))~~ child(ren) for the following special needs requires approval by the MAA First Steps childcare coordinator or

designee prior to providing the childcare (see subsection (6) of this section for the prior approval process):

(a) Bedrest for the pregnant client ~~((; or))~~ for any of the following reasons:

(i) Preterm labor, with evidence of cervical change or very high risk clinically or historically for preterm delivery;

(ii) Incompetent cervix;

(iii) Bleeding (abruption, placenta previa, etc.);

(iv) Preterm ruptured membranes;

(v) Intrauterine growth restriction;

(vi) Oligohydramnios;

(vii) Multiple gestations; or

(viii) Other reasons if the obstetrical provider provides a complete clinical description of the client's circumstance (this special request for bedrest must be faxed to the MAA First Steps childcare coordinator or designee).

(b) The newborn(s) is in a neonatal intensive care unit (NICU) and the parent(s) is visiting the NICU.

(6) The prior approval process for a request for First Steps childcare for either of the reasons stated in subsection (5) of this section is as follows:

(a) The authorizer completes appropriate sections of the First Steps Childcare Billing Form (DSHS 14-316((X) form)) and submits the form to the MAA First Steps childcare coordinator or designee.

(i) If ~~((the reason for the request is for))~~ bedrest is required for ((the)) a pregnant client due to one of the reasons listed in subsection (5)(a) of this section, the authorizer documents in the client's file the reason for the bedrest and that the prenatal caregiver has verified that bedrest is necessary; or

(ii) If the reason for the request is to enable a parent(s) to visit the newborn(s) in a NICU, the authorizer documents in the client's file that hospital staff member has verified the parent(s) is visiting the newborn(s) regularly.

(b) The MAA First Steps childcare coordinator or designee:

(i) Approves the special needs request and signs and dates the ~~((form))~~ First Steps Childcare Billing Form (DSHS 14-316) in the appropriate section and returns the form to the authorizer; or

(ii) Informs the authorizer in writing if the request is denied and payment will not be made.

(7) MAA ~~((reimburses))~~ pays for authorized First Steps childcare when provided by any of the following, subject to the limitations and restrictions listed:

(a) A licensed childcare home, center, facility, or foster home; and

(b) A friend, neighbor, or relative, other than those listed in subsection (8) of this section, who is unlicensed and:

(i) Has qualified based on a background check conducted prior to providing the childcare (see subsection (9) of this section for information on the background check process);

(ii) Is eighteen years of age or older; ~~((and))~~

(iii) Has a valid social security number; ~~((or))~~ and

(iv) Is authorized to work in the United States.

(8) The following individuals are not eligible to provide First Steps childcare:

(a) The spouse of the client ~~((;))~~.

(b) The partner of the client(;) if the client and her partner share the same residence.

(c) The father of the ((baby, babies, or unborn(s;)) pregnant client's unborn child(ren).

(d) The father of the client's other children(ren).

(e) A parent or stepparent of the client.

(f) A parent or stepparent of the client's spouse.

(g) A parent or stepparent of the client's partner if the client and her partner share the same residence.

(h) An older child(ren) of the:

(i) Client;

(ii) Client's spouse; or

(iii) Client's partner if the client and her partner share the same residence.

(i) An unlicensed childcare provider:

(i) Whose background check is pending; or

(ii) Who was disqualified due to the background check(;) and

~~(e);~~

(j) Any person under age eighteen.

(9) Each unlicensed individual childcare provider who a client ((designates)) chooses to be a First Steps childcare provider is subject to a background check under RCW 43.20A-710 and 74.15.030. First Steps childcare will not be authorized by ((the MSS or MCM agency or CSO, or reimbursed)) a First Steps child care authorizer, or paid by MAA, until MAA's background check has been completed on the unlicensed childcare provider. Each unlicensed First Steps childcare provider is subject to a new background check every two years from the date of the first background check.

(a) MAA's background check process includes all of the following:

(i) The unlicensed childcare provider completes and signs the First Steps childcare background check form ((and returns it to the MSS or MCM agency or CSO, or sends it directly to the department's background check central unit (BCCU))) and gives it to the client. The client returns it to a First Steps childcare authorizer who submits it to BCCU. The childcare provider's signature on the First Steps childcare background check form authorizes the department's BCCU to perform the background check.

(ii) BCCU performs a background check on the individual(;

~~(iii) BCCU provides)) and notifies~~ the appropriate ((MSS or MCM)) First Steps agency or CSO ((with the results of the background check)) of the results. The First Steps childcare authorizer notifies both the client and childcare provider of one of the following results:

(A) "No known record" (means the individual may provide First Steps childcare);

(B) "Disqualifying record" (means the individual may not provide First Steps childcare); or

(C) "Record" (means the individual has a criminal record that needs further review).

~~((iv))~~ For cases needing further review, ((BCCU notifies MAA and)) MAA:

~~((A))~~ (I) Follows the criteria described in this subsection to determine if the individual ((is approved or disqualified to)) may or may not provide First Steps childcare; and

~~((B))~~ (II) Notifies the ((MSS or MCM)) First Steps agency or CSO, in writing, of the decision.

~~((v))~~ The MSS or MCM agency or CSO notifies the client, in writing, of the results of the designated childcare provider's background check.))

(b) The ((department conducts the)) department's background check ((and)) of unlicensed childcare providers may include a review of:

(i) Records of criminal convictions and pending criminal charges ((as listed)) as reported by the Washington state patrol (WSP);

(ii) Department findings of abuse, neglect, ((and/or)) exploitation ((to)) , and/or abandonment of children ((of)) or vulnerable adults; and

(iii) Disciplinary board final decisions.

(c) The department's background check may include a review of law enforcement records of convictions and pending charges in other states or locations when the need for further information is indicated by:

(i) A person's prior residences;

(ii) Reports from credible community sources; or

(iii) An identification number indicating the subject has a record on file with the Federal Bureau of Investigation.

(d) For the purpose of conducting criminal history portions of background checks as required by chapters 43.20A and 74.15 RCW, the department:

(i) Considers only a person's convictions and pending charges; and

(ii) Does not solicit or use as the sole basis for disqualification, information about:

(A) Arrests not resulting in charges; and

(B) Dismissed charges.

~~(e) ((The department maintains a listing of offenses which, because of their seriousness, automatically disqualifies prospective childcare providers from being authorized to provide First Steps childcare to children of eligible clients. See chapter 388-06 WAC for categories of offenses or, if jurisdiction is outside of the state of Washington, their equivalents.~~

~~(f) If a criminal history check reveals a designated First Steps childcare provider has been charged with or convicted of an offense, or is found to have abused, neglected or exploited children of vulnerable adults, MAA takes the following actions:~~

~~(i) If the check reveals charges are pending against the subject for any of the offenses listed in chapter 388-06 WAC, or their equivalents in other jurisdictions, MAA withholds approval to provide First Steps childcare until dismissal or acquittal occurs. Pending charges for other offenses may be grounds for withholding approval to provide childcare;~~

~~(ii) If the check reveals the subject has been convicted of any the offenses listed in chapter 388-06 WAC, or their equivalents in other jurisdictions, MAA informs the MSS or MSM agency or CSO that the individual is not approved to provide First Steps childcare;~~

~~(iii) If the check reveals the subject has been convicted of an offense not listed in a category in chapter 388-06 WAC, MAA considers such information in determining the character, suitability, and competence of the prospective caretaker as required by chapter 74.15 RCW. MAA will not use the~~

conviction as the sole basis for not approving the person to provide First Steps childcare unless the conviction is directly related to the authorization being sought. MAA does consider the following factors:

- (A) The seriousness and circumstances of the illegal act;
 - (B) The number of crimes for which the person was convicted;
 - (C) The amount of time passed since the illegal act was committed;
 - (D) The age of the person at the time of conviction;
 - (E) The behavior of the person since the illegal act was committed;
 - (F) Recommendations of persons closely associated with the person; and
 - (G) The vulnerability of the persons under care.
- (g) MAA keeps confidential any nonconviction background information provided by BCCU. (Conviction history is not confidential.)
- (h) The department may provide disqualified individuals with background check findings about themselves at the individual's written request)) In certain situations, MAA may find an individual with conviction(s) to be eligible to provide childcare to children through the First Steps childcare program if:
- (i) A conviction for any crime listed in WAC 388-06-0180 occurred more than five years from the date of the First Steps childcare request; or
 - (ii) A conviction was for a crime other than those listed in WAC 388-06-0180; and
 - (iii) MAA uses the criteria in subsection (f) of this section and determines the individual qualifies to provide childcare.
- (f) When an individual's convictions for a crime meet the conditions in (e)(i) and (ii) of this subsection, MAA may review an individual's background to determine character, suitability and competence to have unsupervised access to children using the following factors:
- (i) The amount of time that has passed since the finding or conviction;
 - (ii) The seriousness of the crime that led to the finding or conviction;
 - (iii) The number and types of other convictions in the individual's background;
 - (iv) The individual's age at the time of finding or conviction;
 - (v) Documentation indicating successful completion of all court-ordered programs and restitution;
 - (vi) The individual's behavior since the finding or conviction; and
 - (vii) The vulnerability of the children for whom care is needed.
- (g) MAA considers findings or criminal charges that are pending to carry the same weight as a finding or conviction. The individual may provide proof to MAA that the charge has been dropped or there was an acquittal.
- (h) MAA does not consider a crime a conviction if a pardon is granted or a court of law expunges or vacates the conviction.
- (i) An MAA First Steps childcare program manager reviews all cases that are identified as "record," and reports

the final decision to the First Steps agency staff. The First Steps agency staff notifies the client and the designated childcare provider of the results.

(10) A client who does not agree with a department decision regarding First Steps childcare program services has a right to a fair hearing under chapter 388-02 WAC. After receiving a request for a fair hearing, MAA may request additional information from the client or the department. After MAA reviews the available information, the result may be:

- (a) A reversal of the initial department decision;
- (b) Resolution of the client's issue(s); or
- (c) A fair hearing conducted per chapter 388-02 WAC.

(11) To be ((reimbursed, authorized First Steps childcare providers must submit claims for payment to MAA within ninety calendar days of the first date the childcare is provided. The childcare provider also must provide a W-9 form. The client receives the billing form and W-9 form from the authorizer listed in subsection (3) of this section, and gives the forms to the designated childcare provider.

(a) First Steps childcare billing form DSHS 14-316(X);

(i) Sections IV and V must be completed by the childcare provider and signed and dated (sections I, II, and if applicable, III, are completed by the authorizer).

(ii) The childcare provider mails the original completed form to MAA, or gives it to the client and the client gives the form to the authorizer, who submits it to MAA.

(b) W-9: The childcare provider completes and mails the original W-9 form to MAA, or gives the completed original to the client and the client gives it to the authorizer, who submits it to MAA. (An original W-9 is completed only once for MAA files unless the information changes.)

(12) A client who is authorized to receive First Steps childcare for her child(ren) receives the following forms from a First Steps childcare authorizer and gives the forms to the childcare provider:

(a) First Steps Childcare Billing Form (DSHS 14-316);

(b) W-9 Form (Request for Taxpayer Identification Number and Certification); and

(c) A First Steps Childcare (MAA) Background Authorization Form (DSHS 15-253) if the childcare provider is unlicensed.

(12) To be paid for providing First Steps childcare, an authorized childcare provider must, within ninety days of the first date the childcare is provided:

(a) Complete, sign, and date the appropriate sections of the First Steps Childcare Billing Form (DSHS 14-316);

(b) Complete an original W-9 Form (the W-9 is completed only once for MAA files unless the information changes); and

(c) Mail (or give) the original completed First Steps Childcare Billing Form (DSHS 14-316) and W-9 Form (both forms must have the individual's original signature) to:

(i) The First Steps authorizer, who submits them to MAA; or

(ii) The client and the client mails (or gives) the forms to the First Steps authorizer, who submits them to MAA.

(13) MAA sets ((reimbursement)) payment for First Steps childcare services at a maximum dollar amount per hour from legislatively appropriated funds. ((Reimbursement)) Payment is subject to any exceptions, restrictions, or

other limitations listed in this section and other ((published)) WAC. MAA pays the childcare provider directly for First Steps childcare services when the client and the client's designated First Steps childcare provider meet all the criteria in this section.

~~((13) MAA reimburses MSS agencies for the time spent authorizing childcare through the First Steps childcare program if the client is not receiving MCM services. MAA reimburses once per client, per pregnancy/postpregnancy period, when childcare is authorized.))~~

WSR 03-14-102
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed June 30, 2003, 3:44 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-08-086.

Title of Rule: Amending WAC 388-550-1050 Hospital services definitions, 388-550-6100 Outpatient hospital physical therapy, 388-550-6150 Outpatient hospital occupational therapy, 388-550-6200 Outpatient hospital speech therapy services, and 388-550-6400 Outpatient hospital diabetes education.

Purpose: To avoid federal penalties, the department is amending these rules to be HIPAA-compliant by October 16, 2003.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-057, and 74.08.090.

Summary: The department is amending the rules to comply with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. Also, the rules are being revised to ensure the department's administrative code reflects current policy and practice.

Reasons Supporting Proposal: Complies with the HIPAA requirements and avoids federal penalties by amending rules to be HIPAA-compliant by October 16, 2003. Updates rule content to reflect current department policy.

Name of Agency Personnel Responsible for Drafting: Kathy Sayre, P.O. Box 45533, Olympia, WA 98504, (360) 725-1342; Implementation and Enforcement: John Hanson, P.O. Box 45510, Olympia, WA 98504, (360) 725-1856.

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

Rule is necessary because of federal law, Public Law 104-191 (Health Insurance Portability and Accountability Act of 1996).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rules meet HIPAA-specific standards that all states must meet in regards to electronic health information transactions and the privacy of client health information. In addition, the proposed rules delete language and pro-

vide a cross-reference to appropriate WAC sections to ensure current policy is reflected in rule. Also, the proposed rules update current policy by stating the department pays for six hours of outpatient diabetes education per calendar year per client.

The purpose of the rules is to ensure department rules are HIPAA-compliant by October 16, 2003, and to adopt into permanent rule clarifying language to reflect current department policy and business practices.

The anticipated effects are: (1) To meet HIPAA-specific standards all states must meet in regards to electronic health information transactions and the privacy of client health information; (2) to ensure MAA rules are HIPAA-compliant by October 16, 2003, to avoid federal penalties; and (3) to incorporate into rule existing policy for the number of hours of outpatient diabetes education the department pays per calendar year per client.

Proposal Changes the Following Existing Rules: The department is amending language to comply with HIPAA requirements. In addition, the department has changed language that states the department pays for a maximum of "six hours of individual core survival skills diabetes education per lifetime per client" to "six hours of individual core survival skills diabetes education per calendar year per client."

No small business economic impact statement has been prepared under chapter 19.85 RCW. Small businesses are not affected by these rule changes.

RCW 34.05.328 applies to this rule adoption. The rules meet the definition of a "significant legislative rule." The department has prepared a cost benefit analysis (CBA) memo regarding these rule changes. A copy of the memo can be obtained from John Hanson, Division of Business and Finance, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510, phone (360) 753-4338, e-mail hansonjr@dshs.wa.gov.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

June 27, 2003

Brian H. Lindgren, 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 03-15 issue of the Register.

PROPOSED

WSR 03-14-103
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed June 30, 2003, 3:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-06-086.

Title of Rule: Chapter 388-540 WAC, Kidney disease program and kidney center services.

CHAPTER 388-540 WAC, KIDNEY DISEASE PROGRAM AND KIDNEY CENTER SERVICES: Amending WAC 388-540-001 Purpose and 388-540-005 Definitions; repealing WAC 388-540-010, 388-540-020, 388-540-030, 388-540-040, 388-540-050 and 388-540-060; and new sections **KIDNEY DISEASE PROGRAM (KDP):** WAC 388-540-015 Client eligibility, 388-540-025 Eligibility determination, 388-540-035 Transfer of resources, 388-540-045 Provider requirements, 388-540-055 Covered services and 388-540-065 Reimbursement, **KIDNEY CENTER SERVICES:** WAC 388-540-101 Purpose and scope, 388-540-105 Definitions, 388-540-110 Eligibility, 388-540-120 Provider requirements, 388-540-130 Covered services, 388-540-140 Noncovered services, 388-540-150 Reimbursement, 388-540-160 Items and services included in the composite rate, 388-540-170 Items and services not included in the composite rate, 388-540-180 Laboratory services, 388-540-190 Blood products and services, 388-540-200 Epoetin alpha therapy, and 388-540-210 Injectable drugs given in the kidney center.

Purpose: To reflect operating changes that are necessary to: (1) Comply with federal requirements for Medicaid dialysis reimbursements; and (2) meet Department of Social and Health Services (DSHS) utilization and cost containment initiative (UCCI) budget targets.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.09.510, 74.09.520 (3), and 74.09.522; 42 C.F.R. 405.2101 and 42 C.F.R. 447.325.

Summary: The proposed changes will:

- Improve the clarity and completeness of rules for the state-funded kidney disease program;
- Improve the clarity and completeness of rules for MAA's reimbursements to free-standing kidney centers;
- Establish rules for new reimbursement limitations and methodologies.

Reasons Supporting Proposal: These rules are needed in order to reflect operating changes and reimbursement limitations. Stakeholders have been actively involved in developing the rules. A state plan amendment has been approved.

Name of Agency Personnel Responsible for Drafting: Myra Davis, MAA, P.O. Box 45533, Olympia, WA 98504-5533, (360) 725-1306; **Implementation and Enforcement:** Mary Wendt, MAA, P.O. Box 45510, Olympia, WA 98504-5510, (360) 725-1840.

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

Rule is necessary because of federal law, 42 C.F.R. 405.2101 and 42 C.F.R. 447-325.

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal replaces brief, general language in chapter 388-540 WAC with a more complete description of MAA's kidney disease program (KDP) and rules for reimbursing free-standing kidney centers. The proposal includes new reimbursement methodologies and limitations.

Proposal Changes the Following Existing Rules: There are no substantive operating changes for the kidney disease program.

There are substantive changes in how the Medical Assistance Administration (MAA) reimburses free-standing kidney centers for providing dialysis to MAA clients) other than KDP clients):

- A single dialysis session is reimbursed through a single "composite rate payment";
- Composite rate payments are limited on a per month per client basis;
- Drugs billed to MAA must meet rebate requirements of WAC 388-530-1125;
- Reimbursement for Epoetin alpha is subject to hematocrit and hemoglobin specifications;
- Injectable drugs given in the kidney center are reimbursed up to MAA's published maximum fees.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: The Medical Assistance Administration (MAA) is proposing to amend chapter 388-540 WAC, Kidney disease program and kidney center services.

The new rules are needed to clarify and set-apart MAA rules for the state-funded kidney disease program, and to bring MAA rules for free-standing kidney centers into compliance with federal requirements.

The proposed changes:

- Update program-related definitions;
- Provide a more complete description of the kidney disease program (KDP); and
- Update department policy for dialysis services in free-standing kidney centers, including limitations and reimbursement methodology:
 - A single dialysis session is reimbursed through a single "composite rate payment";
 - Composite rate payments are limited on a per month per client basis;
 - Drugs billed to MAA must meet rebate requirements of WAC 388-530-1125;
 - Reimbursement for Epoetin alpha is subject to hematocrit and hemoglobin specifications; and
 - Injectable drugs given in the kidney center are reimbursed up to MAA's published maximum fees.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT: Chapter 19.85 RCW, the Regulatory Fairness Act, requires

PROPOSED

that the economic impact of proposed regulations be analyzed in relation to small businesses and outlines the information that must be included in a small business economic impact statement (SBEIS).

Preparation of an SBEIS is required when a proposed rule has the potential of placing "a more than minor economic impact" on small businesses.

The Medical Assistance Administration (MAA) has analyzed the proposed rule and concludes:

- There is a more than minor economic impact on free-standing kidney centers;
- There is no disproportionate impact on small businesses; and
- The centers are either nonprofit corporations or business sites run by major private for-profit corporations that do not qualify under the definition of small business.

MAA began analysis of the kidney center rates and reimbursement methodology early in 2002. The kidney centers' dialysis reimbursement and drug costs were targeted for cost savings by the legislatively mandated utilization and cost containment initiative.

MAA changed the payment method for the free-standing kidney centers; moving from billed charges for unbundled services to a "composite rate" method. Over this past year MAA has negotiated with CMS in calculating a statewide payment per composite dialysis session for Washington state, including a cost factor for education and support in beginning dialysis. The composite rate was calculated from an average cost of the free-standing kidney centers' dialysis sessions, then inflated from CY 2000 to CY 2002 by the Washington general vendor rate increase for these related years.

MAA, the kidney centers and other stakeholders have made a concerted effort to satisfy all regulatory and budgetary requirements while minimizing, to the extent possible, the negative economic impacts.

EVALUATION OF PROBABLE COSTS AND PROBABLE BENEFITS: As required by RCW 34.05.328 (1)(c), the administration has analyzed the probable costs and probable benefits of the proposed amendments, taking into account both the qualitative and quantitative benefits and costs.

The proposed amendments make significant changes to current rules for free-standing kidney centers. These amendments and reduced reimbursements reflect changes in the federal regulatory environment, critical economic conditions for Washington state and regulatory improvement efforts.

MAA's new payment method will mirror Medicare processes, so there will be only minimal costs of implementation for the centers. However, over the course of the 2001-2003 biennium, the change from billed charges to the composite rate may result in the centers collectively receiving approximately \$3,180,000.00 less in revenue.

This is a critical cost savings to MAA and the state of Washington.

Given the financial emergency within state government, and considering that failure to reduce reimbursements could have resulted in loss of federal match for all sums paid above the Medicare rate; MAA concludes the probable benefits outweigh the probable costs.

A copy of the statement may be obtained by writing to Myra Davis, Medical Assistance Administration, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1306, fax (360) 586-9727.

RCW 34.05.328 applies to this rule adoption. The proposed rule change meets the definition of a significant legislative rule. A determination of the probable costs and benefits is available from the persons listed above.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on August 26, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by August 22, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaa@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, Department of Social and Health Services, Rules Coordinator, Rules and Policies Assistance Unit, mail to P.O. Box 45850, Olympia, WA 98504-5850, deliver to 4500 10th Avenue S.E., Lacey, WA, fax (360) 664-6185, e-mail fernaa@dshs.wa.gov, by 5:00 p.m., August 26, 2003.

Date of Intended Adoption: Not sooner than August 27, 2003.

June 27, 2003

Brian H. Lindgren, 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 03-15 issue of the Register.

WSR 03-14-111
PROPOSED RULES
STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-085.

Title of Rule: WAC 180-78A-264(10) Approval standard—Program design.

Purpose: The purpose of this rule is to establish the use of the pedagogy instrument as a requirement for verification of program completion for teacher candidates.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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. Not applicable.

PROPOSED

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Centralia School District, 2320 Borst Avenue, Centralia, WA 98531-0610, on August 20 at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by August 6, 2003, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by August 6, 2003.

Date of Intended Adoption: August 22, 2003.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-04-014, filed 1/24/02, effective 2/24/02)

WAC 180-78A-264 Approval standard—Program design. Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program design standard of WAC 180-78A-220(4):

(1) The conceptual framework establishes the shared vision for the unit's efforts in preparing educators to work effectively in P-12 schools. It provides the basis for coherence among curriculum, instruction, field experiences, clinical practice, assessment, and evaluation. The conceptual framework is based on current research and best practice, is cohesive and integrated, supports the state's student learning goals and for teacher preparation programs, and reflects the essential academic learning requirements. The conceptual framework reflects the unit's commitment to preparing candidates to support learning for all students and the unit's commitment to preparing candidates who are able to use educational technology to help all students learn.

(2) Candidates who demonstrate potential for acquiring the content and pedagogical knowledge and skills for success as educators in schools are recruited, admitted, and retained (see WAC 180-78A-200 Candidate admission policies). These candidates include members from under represented groups.

(3) Programs shall assure that candidates are provided with opportunities to learn the pedagogical and professional knowledge and skills required for the particular certificate, and for teacher preparation programs, the competencies for endorsement areas.

(4) A set of learner expectations for program completion are identified and published.

(5)(a) The unit and its school partners design, implement, and evaluate field experiences and clinical practices so that candidates develop and demonstrate the knowledge and skills necessary to help all students learn. Provided, That candidates for an administrator certificate shall complete an internship pursuant to WAC 180-78A-325, candidates for a school psychologist certificate shall complete an internship pursuant to WAC 180-78A-317, and candidates for a school

counselor certificate shall complete an internship pursuant to WAC 180-78A-315.

(b) Field experiences are integrated throughout the preparation program and occur in settings with students representing diverse populations.

(c) Clinical practice is sufficiently extensive and intensive for candidates to demonstrate competence in the professional roles for which they are preparing.

(6) The preparing institution shall assure that candidates are provided with appropriate course work and experiences in teaching methods for each endorsement area. The methods should include:

(a) Instructional strategies.

(b) Curriculum frameworks (essential academic learning requirements).

(c) Assessment strategies, including performance-based measurements of student work.

(d) Unit/lesson planning.

(7) Entry and exit criteria exist for candidates in clinical practice.

(8) Programs reflect ongoing collaboration with P-12 schools.

(9) Candidates for a teacher certificate shall hold/obtain a baccalaureate degree from a regionally accredited college or university pursuant to WAC 180-79A-030(5).

(10) Candidates for a residency certificate shall meet all standards on the pedagogy assessment adopted by the state board of education and published by the office of the superintendent of public instruction. Provided, that an institution may use this tool to assess and make decisions regarding the candidate's performance until August 31, 2004. As of September 1, 2004, passing scores on the pedagogy assessment will be required in order for the institution to verify completion of an approved teacher preparation program.

WSR 03-14-112

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-021.

Title of Rule: WAC 180-79A-308(1) Endorsement by examination.

Purpose: The purpose of the amendment to this rule is to remove the opportunity for individuals to obtain an endorsement through the use of a graduate record examination (GRE) score.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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. Not applicable.

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Centralia School District, 2320 Borst Avenue, Centralia, WA 98531-0610, on August 20, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by August 6, 2003, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by August 6, 2003.

Date of Intended Adoption: August 22, 2003.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 97-04-088, filed 2/5/97, effective 3/8/97)

WAC 180-79A-308 Endorsement by examination. In lieu of completing the required number of credit hours and the essential areas of study, or any portion of such requirements, individuals may add endorsements to an initial or continuing teaching certificate by examination in one of the following ways:

~~((1)) (1) An individual may add an endorsement to a teaching certificate by obtaining a score of not less than one-half standard deviation below the mean on a graduate record examination in the subject matter area for which endorsement is sought.~~

~~((2)) (2) Washington colleges and universities with an approved preparation program for teachers may waive all or any portion of the requirement for a particular endorsement and recommend the candidate to the superintendent of public instruction for the particular endorsement if the following conditions are met:~~

~~((a)) (1) The candidate is required to demonstrate subject matter competency for all or a portion of the requirement waived through passage of one or more written examinations.~~

~~((b)) (2) In the case of waiver of an essential area of study, a faculty member regularly responsible for teaching a course which covers that essential area of study must attest to the fact that the proposed examination is of sufficient scope and depth to evaluate the candidate's knowledge of the essential area of study.~~

WSR 03-14-113

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:36 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-09-086.

Title of Rule: WAC 180-78A-250 Approval standard—Professional education advisory board.

Purpose: The proposed amendment to this rule will require teacher professional education advisory boards to review annually summaries of performance by teacher candidates on the pedagogy assessment.

Statutory Authority for Adoption: RCW 28A.410.010.

Summary: See Purpose above.

Reasons Supporting Proposal: See Purpose above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Larry Davis, State Board of Education, Olympia, (360) 725-6024.

Name of Proponent: State Board of Education.

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. Not applicable.

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

Hearing Location: Centralia School District, 2320 Borst Avenue, Centralia, WA 98531-0610, on August 20, 2003, at 8:30 a.m.

Assistance for Persons with Disabilities: Contact Laura Moore by August 6, 2003, TDD (360) 664-3631 or (360) 725-6027.

Submit Written Comments to: Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by August 6, 2003.

Date of Intended Adoption: August 22, 2003.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

WAC 180-78A-250 Approval standard—Professional education advisory board. Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program approval standards of WAC 180-78A-220(1):

(1) The professional education advisory board has been established in accordance with WAC 180-78A-209.

(2) The professional education advisory board has adopted operating procedures and has met at least four times a year.

(3) The professional education advisory board has reviewed all program approval standards at least once every five years.

(4) The professional education advisory board annually has reviewed follow-up studies ~~((and))~~, placement records,

and summaries of performance on the pedagogy assessment for teacher candidates.

(5) The professional education advisory board has made recommendations when appropriate for program changes to the institution which must in turn consider and respond to the recommendations in writing in a timely fashion.

(6) The professional education advisory board annually has seen, reviewed and approved an executive summary of the activities of the professional education advisory board. The college or university has submitted the approved executive summary to the state board of education.

(7) The professional education advisory board for administrator preparation programs participated in the candidate selection process for principal preparation programs.

PROPOSED

WSR 03-14-126
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 1, 2003, 9:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-03-026.

Title of Rule: Chapter 296-17 WAC, General reporting rules, classifications, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance.

Purpose: The purpose of this proposal is to revise the general reporting rule and risk classification definitions applicable to the temporary help staffing industry. This will provide greater clarification and ease of understanding to the temporary help rules contained in the classification plan and used by the temporary help staffing industry.

The department proposes to amend one general reporting rule, establish one new risk classification, and amend eighteen risk classification definitions applicable to chapter 296-17 WAC for the temporary help staffing industry.

Amend General Reporting Rule: WAC 296-17-31027 Temporary help company.

Establish New Risk Classification Rule: WAC 296-17-76213 Classification 7122 Temporary help - Laborers.

Amend Risk Classification Rules: WAC 296-17-757 Classification 7104 Temporary help - Administrative office, 296-17-758 Classification 7105 Temporary help - Office support, 296-17-759 Classification 7106 Temporary help - Retail/wholesale services, 296-17-760 Classification 7107 Temporary help - Bakery and restaurants, 296-17-761 Classification 7108 Temporary help - Packaging/repackaging, 296-17-762 Classification 7109 Temporary help - Electronic assembly, 296-17-76201 Classification 7110 Temporary help - Field services, 296-17-76202 Classification 7111 Temporary help - Health care, 296-17-76203 Classification 7112 Temporary help - Agriculture services, 296-17-76204 Classification 7113 Temporary help - Janitorial, 296-17-76205 Classification 7114 Temporary help - Assembly work, 296-17-76206 Classification 7115 Temporary help - Food processing, 296-17-76207 Classification 7116 Temporary help - Flagging, public, 296-17-76208 Classification 7117 Tempo-

rary help - Machine operators, 296-17-76209 Classification 7118 Temporary help - Flagging, construction, 296-17-76210 Classification 7119 Temporary help - Commercial vehicle, 296-17-76211 Classification 7120 Temporary help - Hazardous waste, and 296-17-76212 Classification 7121 Temporary help - Logging.

Statutory Authority for Adoption: RCW 51.04.020 General authority, 51.16.035 Classification plan/base rate.

Statute Being Implemented: RCW 51.16.035.

Summary: RCW 51.16.035 requires that the department maintain actuarial solvency of the industrial insurance (workers' compensation) funds and maintain a classification plan. Adjustments to the classification and rating plan reflect changes in Washington industries. Revisions to general reporting rules and risk classification definitions are being amended to provide greater detail and clarity for rules applicable to the temporary help industry. The proposal also creates one new risk classification definition for greater equity for the industry.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Ken Woehl, Tumwater, Washington, (360) 902-4775; Implementation: Kathy Kimbel, Tumwater, Washington, (360) 902-4739; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4750.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The department is proposing changes to the workers' compensation classification plan. The purpose of this rule proposal is to provide amendatory refinements to the general reporting rule and risk classification definitions for greater clarification and ease of understanding by the temporary help staffing industry. The proposal also creates one new risk classification definition for greater equity for the industry. Amendatory changes to these rules will reduce the amount of litigation resulting from issues regarding record keeping and premium assessments by temporary help businesses.

Proposal Changes the Following Existing Rules: The rule proposal amends one general reporting rule, establishes one new risk classification definition, and amends eighteen risk classification definitions for greater clarity, equity, and understanding by the temporary help staffing industry.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Regulatory Fairness Act requires that the economic impact of proposed regulations be analyzed in relation to small business, and outlines the information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a more than minor economic impact on business.

However, since the proposed rule would not place a more than minor economic impact on business, the preparation of a comprehensive SBEIS is not required. The proposed temporary help rule making is clarifying in nature.

RCW 34.05.328 applies to this rule adoption. RCW 51.16.035 requires the Department of Labor and Industries to establish a classification plan to include general reporting

rules, risk classification definitions, and premium rates for all classifications in accordance with recognized principles of insurance.

The rule is significant under RCW 34.05.328, however, this rule is exempt from the significant rule-making criteria because RCW 34.05.328 (5)(b)(vi) establishes that rules that set or adjust fees or rates pursuant to legislative standards are exempt from the criteria outlined in RCW 34.05.328.

Hearing Location: Tumwater Labor and Industries Office, 7273 Linderson Way S.W., Auditorium, Tumwater, WA 98504-4851, on August 20, 2003, at 10:30 a.m.

Assistance for Persons with Disabilities: Contact Office of Information and Assistance by August 21, 2003, TDD (360) 902-5797.

Submit Written Comments to: Department of Labor and Industries, Ken Woehl, Classification Services Section, P.O. Box 44148, Olympia, WA 98504-4148, e-mail to WOEH@lni.wa.gov, or fax (360) 902-4729, by August 21, 2003.

Date of Intended Adoption: September 30, 2003.

July 1, 2003

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-31027 Temporary ((help company)) staffing services. ((Sometimes I use temporary help employees which I obtain through a temporary help company. Do I have to report those workers to labor and industries in my basic classification? No, if you obtain temporary help employees from a temporary help company, the temporary help company should report these workers to us and pay the required premiums. Temporary help companies have special classifications assigned to them to report and pay premiums on behalf of their client businesses. These classifications are used only in the temporary help industry and are different from our basic classifications which are assigned to nontemporary help companies. If the temporary help service fails to pay premiums to us, the client company is held responsible for the unpaid premiums of any temporary help employee used by the client company.)) (1) To whom does this rule apply? This rule applies to any temporary staffing business providing temporary employees to a client customer.

(2) Who pays the workers' compensation insurance premium for temporary staffing employees? RCW 51.16.060 requires the temporary staffing service provider to pay the required premiums for temporary employees assigned to a client customer.

Note: If the temporary staffing service provider fails to pay the required premium to labor and industries, the client customer is responsible for the unpaid premium.

(3) How are classifications determined for a temporary staffing business? We will assign the classification or classifications to your business based on the nature of your business.

Note: This process is identical to how classifications are assigned to a nontemporary staffing business.

(4) Are there special classifications that apply to temporary staffing businesses? Yes we have created a series of special classifications that only temporary staffing businesses use. They are found in WAC 296-17-757 through 296-17-76213.

Example: A temporary staffing business that specializes in providing nurses to medical facilities would be assigned the temporary staffing classification for health care facilities.

Example: A temporary staffing business that provides temporary employees to a variety of client customers would be assigned multiple temporary staffing classifications.

(5) Do other businesses have special classifications? All businesses have special classifications.

Example: A nontemporary service employer engaged exclusively in plumbing work would have a plumbing classification assigned to their business.

Example: A nontemporary service employer engaged in framing houses, land clearing and roofing would have a classification for framing, one for land clearing and a separate classification for the roof work. This is done because construction work is done by contract and each contract will be different.

(6) Why doesn't labor and industries just use nontemporary staffing classifications for temporary staffing businesses? Temporary staffing companies requested labor and industries to create special classifications for their industry. The alternative to special industry classifications would result in temporary staffing business to use the nontemporary staffing classification that their client customer uses. Labor and industries has over three hundred main classifications and twelve hundred subclassifications that employers report in. Requiring temporary staffing companies to use all of these classifications would result in an administrative burden for the temporary staffing businesses. Classifications unique to temporary staffing provide temporary staffing businesses the incentives to improve safety for their employees and control the cost of workers' compensation insurance.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-757 Classification 7104.

7104-01 Temporary ((help company)) staffing services: Administrative office((s)) personnel

This classification applies ((only)) to employees such as, but not limited to, clerical office ((s)), payroll, accounting, human resource managers, data processing, and outside sales personnel of the temporary ((help)) staffing company who work in the administrative or branch offices of a temporary ((help)) staffing company. ((This classification also applies to an employment agency's administrative office when conducted in connection with a temporary help company operation.))

This classification excludes all other employees of a temporary ((help)) staffing company who are assigned to ((s)) work for a client customer((s)). Temporary staffing employees who are assigned to work in the client customer's

administrative or clerical office (~~who~~) are to be reported separately in classification 7105.

Note: This classification also applies to an employment agency's administrative office when conducted in connection with a temporary staffing company operation.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-758 Classification 7105.

7105-01 Temporary (~~help company~~) staffing services: Office support services

This classification applies to employees of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(s) and who are engaged wholly in office work for (~~such~~) the client customer(s). This classification includes occupations such as, but not limited to, clerks, typists, receptionists, secretaries, accountants, actuaries, attorneys, bank tellers, bookkeepers, word processors, data entry (~~and computer~~) operators, computer programmers, drafters, designers, graphic artists, technical writers, technical illustrators, design engineers, library assistants, telemarketers, dispatchers, prepress work for printers, collating by hand such as in a bindery, and mail clerks who do not operate equipment. Employees subject to this classification are not required to be physically located in (~~a~~) the client customer's clerical office. The test is whether they perform clerical office (~~work~~) duties as described in (~~this classification~~) WAC 296-17-31018(2). Employees who perform clerical office duties described in this classification are not required to be assigned classifications 7106 through 7122. A division of worker hours is not permitted between this classification and any other classification.

Note: This classification excludes (~~mail clerks who operate~~) temporary staffing employees assigned to a client customer whose duties include operation of equipment such as, but not limited to, mail stuffing and sorting equipment, and collating machines who are to be reported separately in classification 7109-01.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-759 Classification 7106.

7106-01 Temporary (~~help company~~) staffing services: Retail or wholesale store (~~services~~) operations

This classification applies to employees of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(s) and who are engaged in activities related to a store operation as opposed to a warehouse or repackaging operation. Activities may include a combination of clerical type duties and those that require minimal physical lifting. This classification includes occupations such as, but not limited to, cashiers, stockers, beauticians, gift wrappers, buyers, product demonstrators, booth aids, models, outside sales persons, and inventory takers. This classification excludes employees of a temporary staffing company who are assigned on a temporary basis to a client customer to work in an adjacent storage area such as a

lumber or building material yard of a home improvement center or a masonry dealer are to be reported separately in classification 7114.

Note: For the purpose(s) of this classification, (~~taking~~) inventory services covered by this classification is limited to those services provided to a client company when performed in a retail/wholesale store (~~operations which are performed exclusively at ground level~~).

(~~This classification excludes~~) All other inventory employees (~~who take inventory with the use of ladders, step stools to reach any height, or when the inventory is performed for customers not engaged in store operations, who~~) are to be reported separately in classification 7114-00 provided they do not operate equipment or machinery.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-760 Classification 7107.

7107-01 Temporary (~~help company~~) staffing services: Bakery, restaurant, or food sundry preparation (~~services~~); musicians or entertainers

This classification applies to employees of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(s) and who are engaged in activities such as, but not limited to, baking, cooking, food preparation, waiting and bussing tables, and dishwashing. This classification also (~~applies to~~) includes musician and entertainment employees (~~of a temporary help company who are~~) assigned on a temporary basis to (~~its~~) a client customer (~~s and who are engaged as musicians or entertainers~~).

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-761 Classification 7108.

7108-01 Temporary (~~help company~~) staffing services: Warehouse operations including incidental packaging and repackaging of (~~dry goods, retail products, and pharmaceuticals as part of the distribution and preshipping process~~) goods

This classification applies to employees of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(~~s and~~) who are engaged in (~~warehousing or repackaging~~) operating a storage or distribution warehouse for dry goods such as, but not limited to, clothing, fabric, yarn(~~;~~), and shoes(~~;~~); or houseware items such as glassware (bowls, vases, bottles), linens(~~;~~ kitchenware~~;~~) and china(~~;~~); or books, (~~drugs;~~) computer discs, bulk film, cassette tapes, records, and pharmaceutical preparations. Employees assigned to this classification may be involved in incidental repackaging of products described in this classification when they are performed in a storage or distribution warehouse covered by this classification.

Note: This classification excludes (~~any~~) all employees who do assembly (~~or~~) work; all employees who are involved in freight/material handling of hard goods such as, but not limited to, wood, metal, plate glass, plastic, or masonry products (~~which are to be reported separately in classification~~

7114 provided they do not operate equipment or machinery); and all employees assigned to a client customer engaged in any manufacturing or processing operation even though the employees' duties are limited to shipping and receiving activities of products covered by this classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-762 Classification 7109.

7109-01 Temporary (~~(help company)~~) staffing services: Electronic, precision, and scientific equipment assembly; nonfield technician services

This classification applies to employees of a temporary (~~(help)~~) staffing company who are assigned on a temporary basis to (~~(its)~~) a client customer(~~(s)~~) and who are engaged in the assembly of electronic or biomedical equipment or engaged in printing and bindery work and temporary staffing employees assigned to work in a client company's mail room and who as a part of their duties operate bindery, labeling, mailing or sorting machines. This classification includes, but is not limited to, (~~(occupations such as)~~) electronic assemblers, electro-mechanical assemblers, quality control inspectors, test technicians, kit pullers, storekeepers, upholsterers, laboratory technicians, printers, offset operators, lead type-setters, mail clerks who operate equipment, and bindery workers.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76201 Classification 7110.

7110-00 Temporary (~~(help company)~~) staffing services: Field engineer and field technician services; parking lot attendants, N.O.C.

This classification applies to employees of a temporary (~~(help)~~) staffing company who are assigned on a temporary basis to (~~(its)~~) a client customer(~~(s)~~) and who are engaged in duties away from the customers' premises and who are providing field engineering, field technician services, traffic counters, and surveying services, telephone installation and service within buildings, vending machine service, and to parking lot or garage attendants, weigh scale attendants, and service station attendants (other than mechanics). This classification also includes employees of a temporary staffing company assigned to a client company to wash or detail rental cars, provide lot services such as moving cars or checking rental agreements and drivers who move rental or customer cars from one lot to another.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76202 Classification 7111.

7111-00 Temporary (~~(help company)~~) staffing services: Health care, medical laboratory, quality control services, testing laboratories, N.O.C.; homemaker services and home health care services

This classification applies to employees of a temporary (~~(help)~~) staffing company who are assigned on a temporary basis to (~~(its)~~) a client customer(~~(s)~~ and) who are (~~(providing)~~) engaged in health care services. This classification includes employments such as, but not limited to, therapists, nurses, nurses aides, physicians, dental hygienists, laboratory technicians, and assistants who work at a health care facility or at the home of the patient.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76203 Classification 7112.

7112-00 Temporary (~~(help company)~~) staffing services: Agricultural (~~(services)~~) operations

This classification applies to employees of a temporary (~~(help)~~) staffing company who are assigned on a temporary basis to (~~(its)~~) a client customer(~~(s)~~) and who are engaged in any aspects of agricultural operations such as field crops, livestock, stables, dairies, nurseries, and greenhouses. This classification contemplates all agricultural employments including the operation of power driven farm machinery or equipment.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76204 Classification 7113.

7113-00 Temporary (~~(help company)~~) staffing services: Janitorial, plant or facility supplemental maintenance and grounds keeping services

This classification applies to employees of a temporary (~~(help)~~) staffing company who are assigned on a temporary basis to (~~(its)~~) a client customer(~~(s)~~) and who are engaged in janitorial work, building preoccupancy cleanup, plant or facility maintenance, and/or grounds maintenance work on an existing landscape. Grounds keeping work contemplated by this classification means, but is not limited to, mowing lawns, pruning shrubs, and weeding, as compared to new landscape construction work. This classification includes landscape workers involved exclusively in hand labor work such as raking, digging, using a wheelbarrow to haul soil, beauty bark or decorative rock, whether performed as maintenance of existing landscape or new landscape work.

This classification excludes employees engaged in cleaning exterior windows, cleaning and removing debris or building material, and construction of new landscapes such as, but not limited to, clearing of land, installation of underground sprinkler systems, moving boulders, who are to be reported separately in classification 7118; and employees engaged in removing trees who are to be reported separately in classification 7121. A division of worker hours is not permitted between this classification and any other classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76205 Classification 7114.

7114-00 Temporary (~~(help company)~~) staffing services: Warehouse operations, N.O.C. including incidental assembly work (~~(and freight handling, N.O.C.)~~); inventory takers, N.O.C.

This classification applies to employees of a temporary (~~(help)~~) staffing company who are assigned on a temporary basis to ((its)) a client customer((s and who are engaged in the assembly of wood, metal, plastic, or masonry products during shipping or receiving; and handling freight such as tires, furniture, and other products made of wood, metal, plastic, or masonry products during shipping or receiving. Employees assigned this classification could use small power driven hand tools to assemble goods and nonpowered pallet jacks or hand trucks for handling freight)) who are engaged in warehousing or distribution operations N.O.C. Products may include, but are not limited to, tires, mattresses, furniture, appliances, bricks, lumber, window sashes, bicycles, lawn and garden tools, lawn mowers, canned goods, beverages, pipe and wire. Employees assigned to this classification may do some assembly work such as, but not limited to, putting doors on cabinets and putting pedals, seats and handlebars on bicycles. Assembly work may involve the use of hand held tools to assemble goods. This classification contemplates that temporary staffing employees working in these warehouse operations may use hand trucks, powered and nonpowered pallet jacks and forklifts for freight handling. This classification also applies to employees of a temporary (~~(help)~~) staffing company ((who are)) assigned ((on a temporary basis)) to ((its)) a client customer((s who are engaged in taking inventory and who are)) to do inventory work not covered by another classification ((N.O.C.)); and to employees of a temporary staffing company assigned to work in a client customer's home improvement center, building supply center, masonry store, pipe dealer or similar business's storage yard or warehouse.

This classification excludes all employees ((who operate power driven equipment or machinery to perform assembly work or freight handling activities who are to be reported separately, without division of hours, in classification 7117)) assigned to work at a client customer's manufacturing, processing or production plant even though the employees do not operate equipment. A division of worker hours is not permitted between this classification and any other classification.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76206 Classification 7115.

7115-00 Temporary (~~(help company)~~) staffing services: Cannery, bottling or food processing ((services)) operations

This classification applies all to employees of a temporary ((help)) staffing company who are assigned on a tempo-

rary basis to ((its)) a client customer((s)) and who are engaged in cannery, bottling or food processing operations such as, but not limited to, canning, freezing, or dehydrating, or in packing fresh fruits or vegetables. Cooking or otherwise preparing food prior to processing or packing is included in this classification.

~~((This classification excludes employees engaged in operating or maintaining plant or cannery equipment or machinery who are to be reported separately in classification 7117.))~~

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76207 Classification 7116.

7116-00 Temporary (~~(help company)~~) staffing services: Flagging services by specialty contractor((+ Flagging)) for public utility line construction

This classification applies to specialty (nonconstruction) contractors that are providing flagging services on public utility, power, water, or gas line construction projects. This classification also applies to employees of a temporary (~~(help)~~) staffing company who are assigned to provide flagging services on a temporary basis to a public utility company ((to provide flagging services)) (nonconstruction contractor) during the construction or extension of overhead or underground power, water, or gas lines.

This classification excludes employees of construction contractors who perform flagging duties who are to be reported separately in the classification applicable to the construction work the construction contractor is performing.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76208 Classification 7117.

7117-00 Temporary (~~(help company)~~) staffing services: ((Machine operators, skilled craft persons—plant or shop)) Manufacturing operations, N.O.C.; specialty trades

This classification applies to employees of a temporary ((help)) staffing company who are assigned on a temporary basis to ((its)) a client customer((s and)) engaged in a variety of manufacturing and processing operations. This classification includes employees who may operate power driven equipment or machinery such as, but not limited to, forklifts, table saws, drill presses, industrial packaging and processing equipment or machinery((, or who are assigned to work in the customer's plant or shop)) N.O.C. This classification ((also applies to skilled craftpersons such as)) includes occupations such as, but not limited to, machinists, mechanics, welders, tool and die makers, ((carpenters,)) cabinet makers, ((and to)) painters, and fabricators. This classification also includes employees of a temporary ((help)) staffing company who work in the specialty trades of plumbing, electrical wiring, or sheet metal work either at a plant or a construction site. Businesses or industries contemplated by this classification include, but are not limited to, cabinet shops, wood products

manufacturers, plastic goods manufacturers, fiberglass goods manufacturers, glass manufacturers, foundries, metal goods manufacturers, brick, cement or masonry products manufacturers; lumber remanufacturers, (~~canneries,~~) amusement parks, sign painting shops, (~~printing shops,~~) and laundries, but does not apply to shake or shingle mills.

This classification excludes all employees of a temporary (~~help~~) staffing company (~~who~~) assigned to work for a client customer at a construction site(~~s performing duties other than those of~~) except the specialty trades (~~who are to be reported separately, without a division of hours, in classification 7118;~~) described above. This classification also excludes employees of a temporary (~~help~~) staffing company who are assigned to work in maritime trades subject to Washington workers' compensation laws who are to be reported separately in classification 7120; and employees (~~of a temporary help company who are~~) assigned to do plant maintenance work in a customer's plant who are to be reported separately in classification 7113.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76209 Classification 7118.

7118-00 Temporary (~~help company~~) staffing services: Flagger services by specialty nonconstruction contractor, N.O.C.; construction employments, N.O.C.

This classification applies to specialty nonconstruction contractors that are providing flagging services (~~which are~~) not covered in classification 7116. This classification also applies to employees of a temporary (~~help~~) staffing company assigned on a temporary basis to (~~its~~) a client customer(~~s~~) and who are engaged in any aspect of construction work such as, but not limited to, road construction, new landscape work, N.O.C., nonagricultural tree topping and nonagricultural tree pruning, underground or overhead utility lines, fence erection, metal erection(~~s~~) and installation of signs or lighting(~~, including~~). This classification further includes the operation of equipment, machinery, and tools by (~~these~~) temporary staffing employees covered by this classification, and to temporary staffing employees assigned to perform security (~~personnel~~) and (~~flaggers~~) flagging services for a client customer who are not covered by another classification(~~, (N.O.C.))~~.

This classification (~~excludes~~) does not apply to employees of construction contractors who (~~perform flagging duties who~~) are to be reported separately in the classification applicable to the construction work the construction contractor is performing (~~and~~); employees of a temporary staffing company who are assigned to a client customer engaged in tree removal services who are to be reported separately in classification 7121; or to employees of a temporary (~~help~~) staffing company who are working in the specialty trades of plumbing, electrical wiring, or sheet metal work for a client customer who are to be reported separately in classification 7117.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76210 Classification 7119.

7119-00 Temporary (~~help company~~) staffing services: Commercial vehicle operations, N.O.C.; sawmill operations

This classification applies to employees of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(~~s~~) and who are engaged in commercial vehicle operations such as, but not limited to, driving truck for a moving or storage company, driving garbage collection trucks, driving pilot cars, driving delivery vehicles, driving buses or driving taxis. This classification also applies to employees of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(~~s~~) and who are engaged in any aspect of sawmill work such as, but not limited to, operating machinery, grading lumber, or sorting and stacking lumber.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76211 Classification 7120.

7120-00 Temporary (~~help company~~) staffing services: Hazardous waste handling; maritime employments

This classification applies to all employees N.O.C., of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(~~s~~) and who are engaged in hazardous waste handling operations. This classification also applies to all employees N.O.C., of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(~~s~~) and who are engaged in maritime (~~employments~~) operations subject to Washington workers' compensation laws, including diving or subaqueous work.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-76212 Classification 7121.

7121-00 Temporary (~~help company~~) staffing services: Logging(~~s~~); tree removal service; stump grinding services; shake or shingle mills; aircraft flight crew members

This classification applies to all employees of a temporary (~~help~~) staffing company who are assigned on a temporary basis to (~~its~~) a client customer(~~s~~) and who are engaged in any phase of logging or aircraft operations or who are assigned to work in any lumbering mill, including equipment or machinery operators related to industries subject to this classification.

PROPOSED

NEW SECTION**WAC 296-17-76213 Classification 7122.****7122-00 Temporary staffing services: Laborers and non-machine operators, N.O.C., for manufacturing and processing operations**

This classification applies to employees of a temporary staffing company who are assigned on a temporary basis to a client customer and who are engaged as a laborer or non-machine operator of manufacturing and processing operations. Businesses or industries contemplated by this classification include, but are not limited to, cabinet shops, wood products manufacturers, plastic goods manufacturers, fiberglass goods manufacturers, glass manufacturers, foundries, metal goods manufacturers, brick, cement or masonry products manufacturers; lumber remanufacturers, amusement parks, sign painting shops, and laundries, but does not apply to shake or single mills.

This classification excludes all employees of a temporary staffing company assigned to work for a client customer at a construction site or in any phase of construction. This classification also excludes employees of a temporary staffing company assigned to work for a client customer performing work as a machine operator or skilled craftsman for manufacturing and processing operations who are to be reported separately in classification 7117.

WSR 03-14-136**WITHDRAWAL OF PROPOSED RULES****DEPARTMENT OF****LABOR AND INDUSTRIES**

(By the Code Reviser's Office)

[Filed July 2, 2003, 8:32 a.m.]

WAC 296-823-13015, 296-823-13020, 296-823-13025, 296-823-13030, 296-823-16035, 296-823-16040, 296-823-16045, 296-823-17015, 296-823-17020, 296-823-17025, 296-823-17030, 296-823-190, 296-823-19005, 296-823-19010, 296-823-19015, 296-823-19020, 296-823-19025, 296-823-19030, 296-823-19035, 296-823-19040, 296-823-19045, 296-823-19050 and 296-823-19055, proposed by the Department of Labor and Industries in WSR 03-01-097 appearing in issue 03-01 of the State Register, which was distributed on January 2, 2003, 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 03-14-137**WITHDRAWAL OF PROPOSED RULES****DEPARTMENT OF HEALTH**

(By the Code Reviser's Office)

[Filed July 2, 2003, 8:33 a.m.]

WAC 246-310-132, 246-310-261, 246-310-262 and 246-310-263, proposed by the Department of Health in WSR 03-01-112 appearing in issue 03-01 of the State Register, which was distributed on January 2, 2003, 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 03-14-145**PROPOSED RULES****DEPARTMENT OF HEALTH**

[Filed July 2, 2003, 10:55 a.m.]

Original Notice.

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

Title of Rule: WAC 246-282-990 Sanitary control of shellfish—Fees.

Purpose: The proposed rule restructures the fee schedule implemented August 16, 2002, pursuant to the 2002 supplemental operating budget, section 220, chapter 371, Laws of 2002, that is assessed to commercial shellfish operations to pay for PSP testing of commercially harvested geoduck. The proposed rule realigns fee assessment in relationship to the number of geoduck PSP tests performed for each entity in 2002. Although the restructure will result in revenue neutral fees, the new schedule will increase some fees over I-601 limits while reducing others. Authority to exceed I-601 limits was approved by the legislature in the 2003 biennial budget.

Statutory Authority for Adoption: RCW 43.70.250.

Summary: Commercial shellfish PSP testing is an integral part of the shellfish operations licensing program. The proposed rule is necessary to implement a revised fee schedule that is based on the amount of geoduck PSP testing done and the number of companies harvesting geoduck in 2002. The proposed revised fee will be used to fund commercial geoduck PSP testing, and is revenue neutral.

Reasons Supporting Proposal: The proposed revision incorporates changes requested by the affected industry, and makes fee assessment more equitable by spreading the cost of the service across all companies using the service. It is calculated using the cost of service, the number of geoduck PSP tests performed, and the number of geoduck PSP tests performed for each entity in 2002. The proposed revision is necessary because of annual fluctuations in numbers of tests performed and numbers of companies harvesting geoducks.

Name of Agency Personnel Responsible for Drafting: Jan Jacobs, New Market Center, Building 4, Tumwater, (360) 235-3316; Implementation and Enforcement: Jennifer

Tebaldi, New Market Center, Building 4, Tumwater, (360) 235-3325.

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: Last year when subtidal (geoduck) PSP fees were implemented, geoduck harvesters included tribes and non-tribal companies that lease geoduck tracts from the Department of Natural Resources. The Department of Natural Resources (DNR) agreed to pay for PSP testing done on tracts it leases to nontribal companies, so the fee structure was designed to split fees between DNR and participating tribes. Fees were assessed based on the average number of tests performed for each entity over the previous two years.

Some of the criteria upon which the subtidal geoduck fee structure was based have change in the past year. Several tribes have recently begun harvesting geoduck, but have been doing so for less than the two years specified in the assessment criteria. Also, nontribal companies have begun geoduck harvest on both subtidal and intertidal private tidelands, and testing required for these sites is not addressed in the current fee schedule. The proposed revision allows the inclusion of nontribal companies harvesting geoduck, as well as Tribes that have been harvesting for less than two years, into the fee structure; it assesses fees based on the number of tests performed for each entity in the past year, rather than the average number of tests over the previous two years; and it changes the fee definition from "subtidal harvest" to "geoduck harvest" which allows companies harvesting intertidal geoduck to be included in the fee schedule and share the cost of geoduck PSP testing. The proposed fee restructure is revenue neutral. However, while reducing some fees, the restructure will increase others over I-601 limits. Authority to exceed I-601 limits was approved by the legislature in 2003 biennial budget.

Proposal Changes the Following Existing Rules: The proposed rule restructures the fees assessed to commercial shellfish operations to pay for PSP testing of commercially harvested geoduck. It allows for the inclusion of all companies harvesting geoduck to share the cost of service. The restructure is revenue neutral.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025, a small business economic impact statement is not required for rules that set or adjust fees pursuant to legislative standards. This rule proposes to revise a fee necessary to defray the costs of administering the commercial shellfish license program. The department is directed under RCW 43.27.250 to set fees so that the cost of a business license program is fully borne by members of that business. In addition, the 2002 supplemental operating budget changed the funding source for this activity from the general fund-state to general fund-local account.

RCW 34.05.328 does not apply to this rule adoption. RCW 34.05.328 "significant rule analysis" does not apply to rules that set or adjust fees pursuant to legislative standards, as this proposal does. See above.

Hearing Location: Department of Health, New Market Industrial Campus, 7171 Cleanwater Lane, Building 6, Tumwater, WA 98504, on August 19, 2003, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Jan Jacobs by August 12, 2003, TDD (800) 833-6388.

Submit Written Comments to: Jan Jacobs, Food Safety and Shellfish Programs, P.O. Box 47824, Olympia, WA 98504-7824, fax (360) 236-3316, by August 19, 2003.

Date of Intended Adoption: August 20, 2003.

July 2, 2003

Mary C. Selecky
Secretary

PROPOSED

AMENDATORY SECTION (Amending WSR 02-15-094, filed 7/16/02, effective 8/16/02)

WAC 246-282-990 Fees. (1) Annual shellfish operation license fees are:

Type of Operation	Annual Fee
Harvester	\$250.
Shellstock Shipper	
0 - 49 Acres	\$282.
50 or greater Acres	\$452.
Scallop Shellstock Shipper	\$282
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$514.
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$622.
Plants with floor space > 5000 sq. ft.	\$1,147.

(2) The fee for each export certificate is \$10.

(3) Annual PSP testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

Fee Category	Number of Harvest		Fee
	Type of Operation	Sites	
Harvester		≤ 2	\$173
Harvester		3 or more	\$259
Shellstock Shipper		≤ 2	\$195
0 - 49 acres			
Shellstock Shipper		3 or more	\$292
0 - 49 acres			
Shellstock Shipper		N/A	\$468
50 or greater acres			
Shucker-Packer		≤ 2	\$354
(plants < 2000 ft ²)			
Shucker-Packer		3 or more	\$533
(plants < 2000 ft ²)			
Shucker-Packer		≤ 2	\$429
(plants 2000-5000 ft ²)			

PROPOSED

Fee Category	Number of Harvest Sites	Fee
Type of Operation		
Shucker-Packer (plants 2000-5000 ft ²)	3 or more	\$644
Shucker-Packer (plants > 5000 ft ²)	N/A	\$1,189

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

- (i) At the time of first licensure; or
- (ii) January 1 of each year for companies licensed as harvesters; or
- (iii) July 1 of each year for companies licensed as shell-stock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(4) Annual PSP testing fees for companies harvesting ~~((subtidal))~~ geoduck ~~((below extreme low tide))~~ are as follows:

Harvester	Fee
Department of natural resources ((leased)) <u>quota</u> tracts harvested by ((nontribal licensees)) <u>DNR contract holders</u>	\$((17,178)) <u>9,987</u>
Jamestown S'Klallam Tribe	\$((3,135)) <u>10,442</u>
Lower Elwah Klallam Tribe	\$((3,423)) <u>1,249</u>
<u>Lummi Nation</u>	<u>\$454</u>
Nisqually Indian Tribe	\$((4,316)) <u>2,497</u>
Port Gamble S'Klallam Tribe	\$((5,312)) <u>5,675</u>
Puyallup Tribe of Indians	\$((3,862)) <u>3,859</u>
((Skagit System Cooperative	\$555))
Skokomish Indian Tribe	\$((2,490)) <u>908</u>
Squaxin Island Tribe	\$((5,153)) <u>4,994</u>
Suquamish Tribe	\$((11,595)) <u>7,832</u>
<u>Swinomish Tribe</u>	<u>\$568</u>
Tulalip Tribe	\$((981)) <u>2,724</u>
<u>Chelsea Farms LLC DBA Duc's, Inc.</u>	<u>\$227</u>
<u>Seattle Shellfish</u>	<u>\$454</u>
<u>Taylor Shellfish Company, Inc. (Shelton)</u>	<u>\$795</u>
<u>Washington Shell Fish, Inc.</u>	<u>\$5,335</u>

(5) PSP fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(6) Refunds for PSP fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

WSR 03-14-069
EXPEDITED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed June 26, 2003, 2:04 p.m.]

Title of Rule: Recreational fishing rule.
 Purpose: Amend Duwamish waterway gear restriction.
 Other Identifying Information: This is a North of Falcon rule.

Statutory Authority for Adoption: RCW 77.12.047.
 Statute Being Implemented: RCW 77.12.047.
 Summary: Change gear restriction end date from November 30 to October 31.

Reasons Supporting Proposal: Additional month of protection not warranted.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Lew Atkins, 1111 Washington Street, Olympia, 902-2651; and Enforcement: Bruce Bjork, 1111 Washington Street, Olympia, 902-2372.

Name of Proponent: Department of Fish and Wildlife, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The Duwamish waterway gear restriction protects schooling salmon from snagging. Enough salmon will have cleared the waterway by October 31 that the additional protection is not needed.

Proposal Changes the Following Existing Rules: Change ending date on gear restriction.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Evan Jacoby, Department of Fish and Wildlife, 600 Capitol Way, Olympia, WA 98501-1091, AND RECEIVED BY September 2, 2003.

June 26, 2003
 Evan Jacoby
 Rules Coordinator

AMENDATORY SECTION (Amending Order 01-24, filed 3/5/01, effective 5/1/01)

WAC 220-56-126 Nonbuoyant lures and night closures—Saltwater. It is unlawful to fish for or possess salmon taken for personal use from the following saltwater areas unless the hooks meet the requirements of this section.

(1) Nonbuoyant lure restriction: In the following waters during the periods shown, it is unlawful to use a nonbuoyant

lure that has more than one single hook or has a hook measuring more than 3/4 inch point to shank:

Area	Time Period
Duwamish waterway downstream from the First Avenue South Bridge to an east-west line through SW Hanford Street on Harbor Island parallel to SW Spokane Street where it crosses Harbor Island	July 1 - (November 30) <u>October 31</u>
Budd Inlet - waters south of a line true west from the KGY radio station to the mainland and north of the closed zone provided for in WAC 220-56-128	July 16 - October 31
Westport Boat Basin	August 16 - January 31

(2) During the gear restricted periods provided for in this section it is unlawful to fish for food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) No leads, weights, or sinkers may be attached below or less than 12 inches above a lure.

(4) All hooks must be attached within 3 inches of the bait or lure.

(5) It is unlawful to use forage fish jigger gear.

WSR 03-14-127
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed July 1, 2003, 9:49 a.m.]

Title of Rule: WAC 296-20-010 General information, 296-20-01002 Definitions, 296-20-01501 Physician's assistant rules, 296-20-02010 Review of health services providers, 296-20-12501 Physician assistant billing procedure, 296-20-170 Pharmacy, 296-23-240 Licensed nursing rules, 296-23-246 Attendant services, and 296-23A-0710 Definitions.

Purpose: These WACs will be amended as housekeeping changes.

Statutory Authority for Adoption: RCW 51.04.020.
 Statute Being Implemented: RCW 51.04.020.

Summary: These WACs will be amended to make clearer how to number claims, how to refer to the "healthcare common procedure coding system," how to bill as a physician assistant, that doctors certify time loss compensation, and that pharmacies must refund any charges paid up front by the worker once the claim is allowed. In addition, WAC 296-20-303 Attendant care services is renumbered to WAC 296-23-246. See Explanation of Rule for details.

Reasons Supporting Proposal: These WACs will be amended as housekeeping changes.

Name of Agency Personnel Responsible for Drafting: Jami Lifka, 7273 Linderson Way S.W., Tumwater, WA,

EXPEDITED

(360) 902-4941; Implementation: Gary Franklin, MD, MPH, Office of the Medical Director, (360) 902-5020; and Enforcement: Robert Malooly, Assistant Director for Insurance Services, (360) 902-4209.

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: WAC 296-20-010 General information, the purpose is to change the name of "health care financing administration's common procedure coding system" (HCPCS) to "healthcare common procedure coding system" (HCPCS), to correct the "HFCA" billing form to the "HCFA-1500" billing form, to add retraining and job modification as reasons for sending bills to P.O. Box 44267, to delete a reference to Department of Energy claims which the department no longer administers, and to be clear which letters precede claim numbers on state fund, self-insurance, and crime victims claims.

WAC 296-20-01002 Definitions, changes the reference from "time loss cards" to "certify time loss compensation." Also, changes the name of "health care financing administration's common procedure coding system" to "health care common procedure coding system."

WAC 296-20-01501 Physician assistant's rules, changes the reference from "time loss cards" to "time loss compensation certification."

WAC 296-20-02010 Review of health services providers, deletes a reference to a nonexistent WAC 296-18A-460.

WAC 296-20-12501 Physician assistant billing procedure, makes clear that physician assistants bill under their own L&I provider number.

WAC 296-20-170 Pharmacy—Acceptance of rules and fees, refers the reader to WAC 296-20-020 to make clear that pharmacies must refund any charges paid up front by the worker once the claim is allowed.

WAC 296-20-303 Attendant care services, this WAC is renumbered to WAC 296-23-246.

WAC 296-23-240 Licensed nursing rules, changes the reference from "time loss cards" to "certify time loss compensation."

WAC 296-23A-0710 Definitions, changes the name of "health care financing administration's common procedure coding system" to "health care common procedure coding system."

Proposal Changes the Following Existing Rules: See Explanation of Rule above.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Depart-

ment of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY September 3, 2003.

July 1, 2003

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 96-10-086, filed 5/1/96, effective 7/1/96)

WAC 296-20-010 General information. (1) The following rules are promulgated pursuant to RCW 51.04.020 and 51.04.030. The department or self-insurer may purchase necessary physician and other provider services according to the fee schedules. The fee schedules shall be established in consultation with interested persons and updated at times determined by the department in consultation with those interested persons. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries
Health Services Analysis
Interested Person's Mailing List for the Fee Schedules
P.O. Box 44322
Olympia, WA 98504-4322

The department or self-insurer will require the current version of the federal Health Care ((~~Financing Administration's~~) Common Procedure Coding System (HCPCS) Level I (or CPT) and II codes on January 1, of each new year. CPT refers to the American Medical Association's Physicians' Current Procedural Terminology codes.

The department and self-insurer will allow a "grace period" in which codes deleted each year may be submitted for payment. This grace period will start on January 1 of each year and the length of time will be determined by department policy.

The adoption of these codes on an annual basis is designed to reduce the administrative burden on providers and lead to more accurate reporting of services. However, the inclusion of a service, product or supply within these new codes does not necessarily imply coverage, reimbursement or endorsement, by the department or self-insurer. The department will make coverage and reimbursement decisions for these new codes on an individual basis.

If there are any services, procedures or narrative text contained in the new HCPCS Level I and II codes that conflict with the medical aid rules or fee schedules, the department's rules and policies take precedence.

Copies of the HCPCS Level I and II codes are available for public inspection. These documents are available in each of the department's service locations.

Copies of the HCPCS Level II codes may be purchased from:

The Superintendent of Documents
United States Government Printing Office
Washington, DC 20402
(202) 783-3238

Copies of the Level I (or CPT) codes may be purchased from:

The American Medical Association
Chicago, Illinois 60601
(800) 621-8335

In addition to the sources listed above, both the Level I and II codes may be purchased from a variety of private sources.

(2) The fee schedules are intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. **If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department or self-insurer at the lower rate.** The department or self-insurer will pay the lesser of the billed charge or the fee schedules' maximum allowable.

(3) The rules contained in the introductory section pertain to *all* practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section of the medical aid rules.

(4) The methodology for making conversion factor cost of living adjustments is listed in WAC 296-20-132. The conversion factors are listed in WAC 296-20-135.

(5) No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

(6) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and the usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition. Refer to chapter 51.04 RCW.

(7) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants. A health care practitioner's bill for services, appointment book, accounting records, or other similar methodology do not qualify as appropriate documentation for services rendered. Refer to chapter 296-20 WAC and department policy for reporting requirements.

(8) Except as provided in WAC 296-20-055 (Limitation of treatment and temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

(9) When a worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

(10) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to: Department of Labor and Industries, Claims Administration, P.O. Box 44291, Olympia, Washington 98504-4291.

Accident reports should be sent to: Department of Labor and Industries, P.O. Box 44299, Olympia, Washington 98504-4299.

Send provider bills by type (UB-92) to: Department of Labor and Industries, P.O. Box 44266, Olympia, Washington 98504-4266.

Adjustments, Home Nursing, Retraining, Job Modification, and Miscellaneous to: Department of Labor and Industries, P.O. Box 44267, Olympia, Washington 98504-4267.

Pharmacy to: Department of Labor and Industries, P.O. Box 44268, Olympia, Washington 98504-4268.

((HPCA)) HCFA-1500 to: Department of Labor and Industries, P.O. Box 44269, Olympia, Washington 98504-4269.

State fund claims have six digit numbers preceded by a letter other than "S," "T," or "~~(W)~~W."

((Department of energy claims have seven digit numbers with no letter prefix:))

All correspondence and billings pertaining to *crime victims* claims should be sent to Crime Victims Division, Department of Labor and Industries, P.O. Box 44520, Olympia, Washington 98504-4520.

Crime victim claims have six digit numbers preceded by a "V((-)" or five digit numbers preceded by "VA," "VB," "VC," "VH," "VJ," or "VK."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or the service representative as the case may be.

Self-insured claims are six digit numbers preceded by ((a)) an "S," ((o)) "T," or "W."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

(11) The department's various local service locations should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

AMENDATORY SECTION (Amending WSR 02-21-105, filed 10/22/02, effective 12/1/02)

WAC 296-20-01002 Definitions. Acceptance, accepted condition: Determination by a qualified representative of the department or self-insurer that reimbursement for the diagnosis and curative or rehabilitative treatment of a claimant's medical condition is the responsibility of the department or self-insurer. The condition being accepted

must be specified by one or more diagnosis codes from the current edition of the International Classification of Diseases, Clinically Modified (ICD-CM).

Attendant care: Those proper and necessary personal care services provided to maintain the worker in his or her residence. Refer to WAC 296-20-303 for more information.

Attending doctor report: This type of report may also be referred to as a "60 day" or "special" report. The following information must be included in this type of report. Also, additional information may be requested by the department as needed.

(1) The condition(s) diagnosed including ICD-9-CM codes and the objective and subjective findings.

(2) Their relationship, if any, to the industrial injury or exposure.

(3) Outline of proposed treatment program, its length, components, and expected prognosis including an estimate of when treatment should be concluded and condition(s) stable. An estimated return to work date should be included. The probability, if any, of permanent partial disability resulting from industrial conditions should be noted.

(4) If the worker has not returned to work, the attending doctor should indicate whether a vocational assessment will be necessary to evaluate the worker's ability to return to work and why.

(5) If the worker has not returned to work, a doctor's estimate of physical capacities should be included with the report. If further information regarding physical capacities is needed or required, a performance-based physical capacities evaluation can be requested. Performance-based physical capacities evaluations should be conducted by a licensed occupational therapist or a licensed physical therapist. Performance-based physical capacities evaluations may also be conducted by other qualified professionals who provided performance-based physical capacities evaluations to the department prior to May 20, 1987, and who have received written approval to continue supplying this service based on formal department review of their qualifications.

Authorization: Notification by a qualified representative of the department or self-insurer that specific proper and necessary treatment, services, or equipment provided for the diagnosis and curative or rehabilitative treatment of an accepted condition will be reimbursed by the department or self-insurer.

Average wholesale price (AWP): A pharmacy reimbursement formula by which the pharmacist is reimbursed for the cost of the product plus a mark-up. The AWP is an industry benchmark which is developed independently by companies that specifically monitor drug pricing.

Baseline price (BLP): Is derived by calculating the mean average for all NDC's (National Drug Code) in a specific product group, determining the standard deviation, and calculating a new mean average using all prices within one standard deviation of the original mean average. "Baseline price" is a drug pricing mechanism developed and updated by First Data Bank.

Bundled codes: When a bundled code is covered, payment for them is subsumed by the payment for the codes or services to which they are incident. (An example is a tele-

phone call from a hospital nurse regarding care of a patient. This service is not separately payable because it is included in the payment for other services such as hospital visits.) Bundled codes and services are identified in the fee schedules.

By report: BR (by report) in the value column of the fee schedules indicates that the value of this service is to be determined by report (BR) because the service is too unusual, variable or new to be assigned a unit value. The report shall provide an adequate definition or description of the services or procedures that explain why the services or procedures (e.g., operative, medical, radiological, laboratory, pathology, or other similar service report) are too unusual, variable, or complex to be assigned a relative value unit, using any of the following as indicated:

(1) Diagnosis;

(2) Size, location and number of lesion(s) or procedure(s) where appropriate;

(3) Surgical procedure(s) and supplementary procedure(s);

(4) Whenever possible, list the nearest similar procedure by number according to the fee schedules;

(5) Estimated follow-up;

(6) Operative time;

(7) Describe in detail any service rendered and billed using an "unlisted" procedure code.

The department or self-insurer may adjust BR procedures when such action is indicated.

Chart notes: This type of documentation may also be referred to as "office" or "progress" notes. Providers must maintain charts and records in order to support and justify the services provided. "Chart" means a compendium of medical records on an individual patient. "Record" means dated reports supporting bills submitted to the department or self-insurer for medical services provided in an office, nursing facility, hospital, outpatient, emergency room, or other place of service. Records of service shall be entered in a chronological order by the practitioner who rendered the service. For reimbursement purposes, such records shall be legible, and shall include, but are not limited to:

(1) Date(s) of service;

(2) Patient's name and date of birth;

(3) Claim number;

(4) Name and title of the person performing the service;

(5) Chief complaint or reason for each visit;

(6) Pertinent medical history;

(7) Pertinent findings on examination;

(8) Medications and/or equipment/supplies prescribed or provided;

(9) Description of treatment (when applicable);

(10) Recommendations for additional treatments, procedures, or consultations;

(11) X rays, tests, and results; and

(12) Plan of treatment/care/outcome.

Consultation examination report: The following information must be included in this type of report. Additional information may be requested by the department as needed.

(1) A detailed history to establish:

(a) The type and severity of the industrial injury or occupational disease.

(b) The patient's previous physical and mental health.

(c) Any social and emotional factors which may effect recovery.

(2) A comparison history between history provided by attending doctor and injured worker, must be provided with exam.

(3) A detailed physical examination concerning all systems affected by the industrial accident.

(4) A general physical examination sufficient to demonstrate any preexisting impairments of function or concurrent condition.

(5) A complete diagnosis of all pathological conditions including ICD-9-CM codes found to be listed:

(a) Due solely to injury.

(b) Preexisting condition aggravated by the injury and the extent of aggravation.

(c) Other medical conditions neither related to nor aggravated by the injury but which may retard recovery.

(d) Coexisting disease (arthritis, congenital deformities, heart disease, etc.).

(6) Conclusions must include:

(a) Type of treatment recommended for each pathological condition and the probable duration of treatment.

(b) Expected degree of recovery from the industrial condition.

(c) Probability, if any, of permanent disability resulting from the industrial condition.

(d) Probability of returning to work.

(7) Reports of necessary, reasonable X-ray and laboratory studies to establish or confirm the diagnosis when indicated.

Doctor: For these rules, means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic medicine and surgery; chiropractic; naturopathic physician; podiatry; dentistry; optometry.

Only those persons so licensed may sign report of accident forms and certify time loss ((~~cards~~)) compensation except as provided in chapter 296-20 WAC.

Emergent hospital admission: Placement of the worker in an acute care hospital for treatment of a work related medical condition of an unforeseen or rapidly progressing nature which if not treated in an inpatient setting, is likely to jeopardize the worker's health or treatment outcome.

Fatal: When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

Fee schedules or maximum fee schedule(s): The fee schedules consist of, but are not limited to, the following:

(a) Health Care ((~~Financing Administration's~~)) Common Procedure Coding System Level I and II Codes, descriptions and modifiers that describe medical and other services, supplies and materials.

(b) Codes, descriptions and modifiers developed by the department.

(c) Relative value units (RVUs), calculated or assigned dollar values, percent-of-allowed-charges (POAC), or diagnostic related groups (DRGs), that set the maximum allowable fee for services rendered.

(d) Billing instructions or policies relating to the submission of bills by providers and the payment of bills by the department or self-insurer.

(e) Average wholesale price (AWP), baseline price (BLP), and policies related to the purchase of medications.

Health services provider or provider: For these rules means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker. It includes, but is not limited to, hospitals, medical doctors, dentists, chiropractors, vocational rehabilitation counselors, osteopathic physicians, pharmacists, podiatrists, physical therapists, occupational therapists, massage therapists, psychologists, naturopathic physicians, and durable medical equipment dealers.

Home nursing: Those nursing services that are proper and necessary to maintain the worker in his or her residence. These services must be provided through an agency licensed, certified or registered to provide home care, home health or hospice services. Refer to WAC 296-20-091 for more information.

Independent or separate procedure: Certain of the fee schedule's listed procedures are commonly carried out as an integral part of a total service, and as such do not warrant a separate charge. When such a procedure is carried out as a separate entity, not immediately related to other services, the indicated value for "independent procedure" is applicable.

Medical aid rules: The Washington Administrative Codes (WACs) that contain the administrative rules for medical and other services rendered to workers.

Modified work status: The worker is not able to return to their previous work, but is physically capable of carrying out work of a lighter nature. Workers should be urged to return to modified work as soon as reasonable as such work is frequently beneficial for body conditioning and regaining self confidence.

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, the worker's time loss compensation will be resumed upon certification by the attending doctor.

If the employer has no modified work available, the department should be notified immediately, so vocational

assessment can be conducted to determine whether the worker will require assistance in returning to work.

Nonemergent (elective) hospital admission: Placement of the worker in an acute care hospital for medical treatment of an accepted condition which may be safely scheduled in advance without jeopardizing the worker's health or treatment outcome.

Physician: For these rules, means any person licensed to perform one or more of the following professions: Medicine and surgery; or osteopathic medicine and surgery.

Practitioner: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the following professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; physician or osteopathic assistant; and massage therapy.

Proper and necessary:

(1) The department or self-insurer pays for proper and necessary health care services that are related to the diagnosis and treatment of an accepted condition.

(2) Under the Industrial Insurance Act, "proper and necessary" refers to those health care services which are:

(a) Reflective of accepted standards of good practice, within the scope of practice of the provider's license or certification;

(b) Curative or rehabilitative. Care must be of a type to cure the effects of a work-related injury or illness, or it must be rehabilitative. Curative treatment produces permanent changes, which eliminate or lessen the clinical effects of an accepted condition. Rehabilitative treatment allows an injured or ill worker to regain functional activity in the presence of an interfering accepted condition. Curative and rehabilitative care produce long-term changes;

(c) Not delivered primarily for the convenience of the claimant, the claimant's attending doctor, or any other provider; and

(d) Provided at the least cost and in the least intensive setting of care consistent with the other provisions of this definition.

(3) The department or self-insurer stops payment for health care services once a worker reaches a state of maximum medical improvement. Maximum medical improvement occurs when no fundamental or marked change in an accepted condition can be expected, with or without treatment. Maximum medical improvement may be present though there may be fluctuations in levels of pain and function. A worker's condition may have reached maximum medical improvement though it might be expected to improve or deteriorate with the passage of time. Once a worker's condition has reached maximum medical improvement, treatment that results only in temporary or transient changes is not proper and necessary. "Maximum medical improvement" is equivalent to "fixed and stable."

(4) In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered proper and necessary. Services that are controversial, obsolete, investigational or experimental are presumed not to be proper and nec-

essary, and shall be authorized only as provided in WAC 296-20-03002(6) and 296-20-02850.

Regular work status: The injured worker is physically capable of returning to his/her regular work. It is the duty of the attending doctor to notify the worker and the department or self-insurer, as the case may be, of the specific date of release to return to regular work. Compensation will be terminated on the release date. Further treatment can be allowed as requested by the attending doctor if the condition is not stationary and such treatment is needed and otherwise in order.

Temporary partial disability: Partial time loss compensation may be paid when the worker can return to work on a limited basis or return to a lesser paying job is necessitated by the accepted injury or condition. The worker must have a reduction in wages of more than five percent before consideration of partial time loss can be made. No partial time loss compensation can be paid after the worker's condition is stationary. **All time loss compensation must be certified by the attending doctor based on objective findings.**

Termination of treatment: When treatment is no longer required and/or the industrial condition is stabilized, a report indicating the date of stabilization should be submitted to the department or self-insurer. This is necessary to initiate closure of the industrial claim. The patient may require continued treatment for conditions not related to the industrial condition; however, financial responsibility for such care must be the patient's.

Total permanent disability: Loss of both legs or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the worker from performing any work at any gainful employment. When the attending doctor feels a worker may be totally and permanently disabled, the attending doctor should communicate this information immediately to the department or self-insurer. A vocational evaluation and an independent rating of disability may be arranged by the department prior to a determination as to total permanent disability. Coverage for treatment does not usually continue after the date an injured worker is placed on pension.

Total temporary disability: Full-time loss compensation will be paid when the worker is unable to return to any type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

Unusual or unlisted procedure: Value of unlisted services or procedures should be substantiated "by report" (BR).

Utilization review: The assessment of a claimant's medical care to assure that it is proper and necessary and of good quality. This assessment typically considers the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the accepted condition being treated.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-20-01501 Physician's assistant rules. (1) Physicians' assistants may perform only those medical services in industrial injury cases, for which the physician's

assistant is trained and licensed, under the control and supervision of a licensed physician. Such control and supervision shall not be construed to require the personal presence of the supervising physician.

(2) Physicians' assistants may perform those medical services which are within the scope of their physician's assistant license for industrial injury cases within the limitations of subsection (3) of this section.

(3) Advance approval must be obtained from the department to treat industrial injury cases. To be eligible to treat industrial injuries, the physician's assistant must:

(a) Provide the department with a copy of his/her license.

(b) Provide the name and address and specialty of the supervising physician.

(c) Provide the department with the evidence of a reliable and rapid system of communication with the supervising physician.

(4) Physicians' assistants may prepare report of accident, time loss (~~cards~~) compensation certification, and progress reports for the supervising physician's signature. Physicians' assistants cannot submit such information under his/her signature.

AMENDATORY SECTION (Amending WSR 90-04-057, filed 2/2/90, effective 3/5/90)

WAC 296-20-0210 Review of health services providers. (1) The department may review providers' patient and billing related records to ensure workers are receiving proper and necessary medical care and to ensure providers' compliance with the department's medical aid rules, fee schedules, and policies. A records review may be the basis for corrective action against the provider.

(2) The department may review records before, during, or after delivery of health services. Records reviews may be for cause or at random and may include the utilization of statistical sampling methodologies and projections based upon sample findings. Records reviews may be conducted at or away from the provider's places of business, at the department's discretion.

(3) The department will give ten working days' written notification to any provider(~~, except as authorized in WAC 296-18A-460,~~) that the provider's patient and billing related records will be reviewed by an auditor at the provider's place(s) of business to determine compliance with medical aid rules and standards.

(4) The department may request legible copies of providers' records. Providers shall furnish copies of the requested records within thirty calendar days of receipt of the request.

(5) The department will not remove original records from provider's premises.

(6) For information regarding the formal appeals process refer to chapter 51.52 RCW.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-20-12501 Physician assistant billing procedure. Billing for physician assistant services (~~can be made only by the supervising physician~~) will be paid at ninety per-

cent of the value listed in the fee schedules. Payment will be made directly to the supervising physician. (~~All physician assistant services must be identified by using physician assistant modifiers, as listed in chapter 296-21-WAC and the fee schedules.~~)

(1) Bills must be itemized on department or self-insurer forms, as the case may be, specifying: The date, type of service and the charges for each service.

(2) The bill form must be completed in detail to include the claim number. (~~While the name of the physician's assistant rendering service must be included on the bill,~~) All bills must be submitted under the (~~supervising~~) physician assistant's account number. Bills will be accepted when signed by other than the practitioner rendering services. When bills are prepared by someone else, the responsibility for the completeness and accuracy of the description of services and charges rests with the supervising physician.

(3) For a bill to be considered for payment, it must be received in the department or by the self-insurer within one year from the date each specific treatment and/or service was rendered or performed. Whenever possible, bills should be submitted monthly.

(4) Bills cannot be paid for services rendered while a claim is closed.

(5) The department or self-insurer may deny payment of bills for services rendered in violation of the medical aid rules or department policy. Workers may not be billed for services rendered in violation of these rules.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-20-170 Pharmacy—Acceptance of rules and fees. Acceptance and filling of a prescription for a worker entitled to benefits under the industrial insurance law, constitutes acceptance of the department's rules and fees. When there is questionable eligibility, (i.e., no claim number, prescription is for medication other than usually prescribed for industrial injury; or pharmacist has reason to believe claim is closed or rejected), the pharmacist may require the worker to pay for the prescription. In these cases, the pharmacist must furnish the worker with a signed receipt and a non-negotiable copy of the prescription including national drug code and quantity or a completed department pharmacy bill form signed in the appropriate areas verifying worker has paid for the prescribed item(s) in order for the worker to bill the department or self-insurer for reimbursement. The worker may not be charged more than the amount allowable by the department or self-insurer. The worker must submit such reimbursement request within one year of the date of service.
See WAC 296-20-020 for details on providing a refund.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-23-240 Licensed nursing rules. (1) Registered nurses and licensed practical nurses may perform private duty nursing care in industrial injury cases when the attending physician deems this care necessary. Registered nurses may be reimbursed for services as outlined by depart-

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ment policy. (See chapter 296-20 WAC for home nursing rules.)

(2) Advanced registered nurse practitioners (ARNPs) may perform advanced and specialized levels of nursing care on a fee for service basis in industrial injury cases within the limitations of this section. ARNPs may be reimbursed for services as outlined by department policy.

(3) In order to treat workers under the Industrial Insurance Act, the advanced registered nurse practitioner must be:

(a) Recognized by the Washington state board of nursing or other government agency as an advanced registered nurse practitioner (ARNP). For out-of-state nurses an equivalent title and training may be approved at the department's discretion.

(b) Capable of providing the department with evidence and documentation of a reliable and rapid system of obtaining physician consultations.

(4) Billing procedures outlined in the medical aid rules and fee schedules apply to all nurses.

(5) Advanced registered nurse practitioners cannot sign accident report forms or certify time loss ((ears)) compensation.

NEW SECTION

The following section of the Washington Administrative Code is recodified as follows:

Old WAC Number	New WAC Number
296-20-303	296-23-246

AMENDATORY SECTION (Amending WSR 01-24-045, filed 11/29/01, effective 1/1/02)

WAC 296-23A-0710 Definitions. "Alternate outpatient payment." A payment for proper and necessary services calculated using a method other than the APC method, such as the outpatient hospital rate or fee schedule.

"Ambulatory payment classification (APC) bill." An outpatient bill for hospital services that are grouped and paid using APCs.

"Ambulatory payment classification (APC) weight." The relative value assigned to each APC by CMS. For information on calculating the APC weights, please see 42 CFR, Chapter IV, Part 419, et al. Medicare Program; Prospective Payment System for Hospital Outpatient Services.

"Ambulatory payment classification (APC)." A grouping for outpatient visits which are similar both clinically and in the resources used.

"Ambulatory surgery centers (ASCs)." Ambulatory surgery centers as defined by the department. ASCs are excluded from the APC payment system.

"Blended rate." The dollar amount used to determine APC payments.

"Bundling." Including the costs of supplies and certain other items with the costs of APCs. Bundled services will not be paid separately.

"Cancer hospitals." Freestanding hospitals specializing in the treatment of individuals who have a neoplasm diagnosis.

"Children's hospitals." Freestanding hospitals specializing in the treatment of individuals less than fourteen years of age.

"CMS." Centers for Medicare and Medicaid Services, formerly the Health Care Financing Administration (HCFA).

"Correct coding initiative." A process to encourage hospitals to code the most appropriate diagnosis and procedure for the services rendered.

"Critical access hospitals." Critical access hospitals as defined by the department of health.

"Current procedural terminology (CPT)." A systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, interventions performed by physicians; the American Medical Association (AMA) publishes it annually.

"Discount factor." The percentage applied to additional significant procedures when a claim has multiple significant procedures or when the same procedure is performed multiple times.

"Exempt services." Services and hospitals that have been identified by CMS and/or L&I as exempt from the APC-based payment system.

"Health care ((~~financing administration's~~)) common procedure coding system (HCPCS)." Medicare's procedure coding system, which consists of Level 1 CPT Codes, Level 2 National Codes, and Level 3 Local Codes.

"Incidental services." Proper and necessary services that are integral to the delivery of the significant procedure or medical visit and are not separately reimbursable.

"Inpatient only procedures." Certain procedures designated by CMS as being of sufficient resource intensity that an inpatient setting is always required.

"Modifier." A two-digit alphabetic and/or numeric identifier that is added to the procedure code to indicate the type of service performed. Modifiers add clarification to procedures and can affect payment. Modifiers are listed in the current CPT and HCPCS manuals.

"Non-APC services." Services specifically excluded by CMS or by L&I from APC payment.

"Out-of-state hospitals." Any hospital not physically located within the state of Washington.

"Outpatient code editor." A prepayment analysis program designed to exclude certain diagnostic and procedure codes from being classified within the APC payment system.

"Outpatient prospective payment system (OPPS)." A payment system that groups hospital outpatient visits into APCs and multiplies the relative weight factor by the OPPS conversion rate to determine the appropriate payment.

"Outpatient services." Proper and necessary health-care services and treatment ordinarily furnished by a hospital in which the injured worker is not admitted as an inpatient.

"Outpatient." A patient who receives proper and necessary health-care services or supplies in a hospital-type setting but is not admitted as an inpatient.

"Partial hospitalization." Mental health services provided in an inpatient setting without the traditional inpatient overnight stay.

"Pediatric services." Proper and necessary healthcare services and treatment ordinarily furnished by a hospital in which the injured worker is under the age of fourteen.

"Peer group." Categories of hospitals adopted by the department of health for rate setting purposes. The categories are:

- Group 1 - Usually rural hospitals.
- Group 2 - Usually urban hospitals without a medical education program.
- Group 3 - Hospitals with a medical education program.

"Psychiatric hospitals." Freestanding hospitals specializing in the treatment of individuals with a mental health disease.

"Rehabilitation hospitals." Freestanding hospitals specializing in the treatment of individuals in need of rehabilitative services.

"Related encounters or related services." Multiple encounters which are:

- Provided within the same window of service; and
- By the same provider (hospital).

"Single visit." A single visit includes all related services that are combined for reimbursement when they occur with the same hospital during the window of service.

"Special programs." Programs specifically designated by the department.

"Transitional pass-through." Certain drugs, devices and biologicals, as identified by CMS that are entitled to a specified payment until CMS assigns and reimburses them under their own APC.

"Window of service." A single date of service. All services associated with the visit for that date constitute a single visit, even when those services are provided on different days.

EXPEDITED



WSR 03-13-052

PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed June 12, 2003, 4:23 p.m.]

Date of Adoption: June 6, 2003.

Purpose: The purpose of these amendments is: (1) To amend rules within chapter 388-71 WAC and adopt new WAC 388-515-1540 to establish the medically needy residential waiver (MNRW) program; and (2) to amend, clarify, and reorganize COPES rules to comply with the Governor's Executive Order 97-02 and the Secretary's Order on Regulatory Improvement; and reflect changes in program requirements and/or options.

SHB 1341 (chapter 269, Laws of 2001) authorizes DSHS to develop a new waiver program for individuals in need of long-term care services in the community. The legislation specifically requires the department to adopt rules to establish eligibility criteria, applicable income standards, and specific waiver services to be provided. This change is also necessary to reflect amendments to the COPES waiver.

This amendment is necessary to implement two-year old legislation and will result in budget savings, will afford clients choice in their long-term care, and will result in more efficient care and increased service delivery, making it consistent with the preservation of public health and general welfare. This new program will allow individuals who cannot afford community residential care and who do not wish to go into a nursing facility, access to long-term care that they could otherwise not afford. For the past two years, many individuals in Washington state have gone into nursing facilities because they had no other choice for receiving care. Not only did this eliminate client choice, but it cost the state more to care for these individuals. DSHS has been waiting for CMS approval to implement this program and just recently received it. We are not expecting any opposition to this rule and many clients have been waiting for this opportunity for years. When effective these permanent rules will supersede and replace emergency rules filed as WSR 03-13-007.

Citation of Existing Rules Affected by this Order: Amending WAC 388-71-0194, 388-71-0202, 388-71-0203, 388-71-0405, 388-71-0410, 388-71-0415, 388-71-0420, 388-71-0425, 388-71-0430, 388-71-0435, 388-71-0442, 388-71-0445, 388-71-0465, 388-71-0470, 388-71-0480, 388-71-0600, 388-71-0605, and 388-71-0610.

Statutory Authority for Adoption: SHB 1341 (chapter 269, Laws of 2001), RCW 74.09.700 and chapter 74.39 RCW, RCW 74.08.090, 74.04.050, and 74.09.575.

Adopted under notice filed as WSR 03-09-042 on April 8, 2003.

Changes Other than Editing from Proposed to Adopted Version: Technical changes made to WAC 388-71-0410 and 388-71-0420. These changes do not alter the scope or purpose of the previous amendments, but clarify the language. Also, a cross-reference was added to WAC 388-71-0442 to include a portion of the CARE assessment tool WAC as a reference. Amended WAC 388-71-0460 was withdrawn from rules proposed as WSR 03-09-042.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 18, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 18, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 6, 2003

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Rules and Policies Assistance Unit

NEW SECTION

WAC 388-515-1540 Medically needy residential waiver (MNRW) effective March 17, 2003. This section describes the financial eligibility requirements for waiver services under the medically needy residential waiver (MNRW) and the rules used to determine a client's responsibility in the total cost of care.

(1) To be eligible for MNRW, a client must meet the following conditions:

(a) Does not meet financial eligibility for Medicaid Personal Care or the COPES program;

(b) Is eighteen years of age or older;

(c) Meets the SSI related criteria described in WAC 388-511-1105(1);

(d) Requires the level of care provided in a nursing facility as described in WAC 388-71-0700;

(e) In the absence of waiver services described in WAC 388-71-0410 and 388-71-0415, would continue to reside in a medical facility as defined in WAC 388-513-1301, or will likely be placed in one within the next thirty days;

(f) Has attained institutional status as described in WAC 388-513-1320;

(g) Has been determined to be in need of waiver services as described in WAC 388-71-0442;

(h) Lives in one of the following department-contracted residential facilities:

(i) Licensed adult family home (AFH);

(ii) Assisted living (AL) facility; or

(iii) Enhanced Adult Residential Care (EARC) facility.

(i) Is not subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1364, 388-513-1365 and 388-513-1366; and

(j) Meets the resource and income requirements described in subsections (2) through (6).

(2) The department determines a client's nonexcluded resources under MNRW as described in WAC 388-513-1350 (1) through (4)(a) and WAC 388-513-1360;

(3) Nonexcluded resources, after disregarding excess resources described in (4), must be at or below the resource standard described in WAC 388-513-1350 (1) and (2).

(4) In determining a client's resource eligibility, the department disregards excess resources above the standard described in subsection (3) of this section:

(a) In an amount equal to incurred medical expenses such as:

(i) Premiums, deductibles, and co-insurance/co-payment charges for health insurance and Medicare premiums;

(ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; or

(iii) Necessary medical care covered under the state's Medicaid plan.

(b) As long as the incurred medical expenses:

(i) Are not subject to third-party payment or reimbursement;

(ii) Have not been used to satisfy a previous spend down liability;

(iii) Have not previously been used to reduce excess resources;

(iv) Have not been used to reduce client responsibility toward cost of care; and

(v) Are amounts for which the client remains liable.

(5) The department determines a client's countable income under MNRW in the following way:

(a) Considers income available described in WAC 388-513-1325 and 388-513-1330 (1), (2), and (3);

(b) Excludes income described in WAC 388-513-1340;

(c) Disregards income described in WAC 388-513-1345;

(d) Deducts monthly health insurance premiums, except Medicare premiums.

(6) If the client's countable income is:

(a) less than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW subject to availability per WAC 388-71-0465;

(b) more than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW when they meet the requirements described in subsections (7) through (9), subject to availability per WAC 388-71-0465.

(7) The portion of a client's countable income over the department-contracted rate is called "excess income."

(8) A client who meets the requirements for MNRW chooses a three or six month base period. The months must be consecutive calendar months.

(9) A client who has or will have "excess income" is not eligible for MNRW until the client has medical expenses which are equal in amount to that excess income. This is the process of meeting "spenddown." The excess income from each of the months in the base period is added together to determine the total "spenddown" amount.

(10) Medical expenses described in subsection (4) of this WAC may be used to meet spenddown if not already used in subsection (4) of this WAC to disregard excess resources or to reduce countable income as described in subsection (5)(d).

(11) In cases where spenddown has been met, medical coverage begins the day services are authorized.

(12) The client's income that remains after determining available income in WAC 388-513-1325 and 388-513-1330 (1), (2), (3) and excluded income in WAC 388-513-1340 is paid towards the cost of care after deducting the following amounts in the order listed:

(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Personal needs allowance (PNA) described in WAC 388-515-1505 (7)(b);

(c) Medicare and health insurance premiums not used to meet spenddown or reduce excess resources;

(d) Incurred medical expenses described in (4) not used to meet spenddown or reduce excess resources.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0194 Home and community services—Nursing services. (1) A registered nurse will review the plan of care for all Medicaid personal care clients.

(2) Upon department or designee referral, a registered nurse will consult about or visit a Community Options Program Entry System client, Medically Needy Residential waiver client or a Medicaid personal care client to perform a nursing service which may include the following activities:

(a) Nursing assessment/reassessment;

(b) Instruction to care providers and clients;

(c) Care coordination;

(d) Evaluation.

(3) The frequency and scope of the nursing service will be based on individual client need and will be provided as outlined in a nursing service design developed in coordination with each area agency on aging. Each design will include critical indicators of the need for the nursing service and must be approved by the following divisions as appropriate: aging and adult services administration, developmental disabilities, children's administration and mental health.

(4) This nursing service will not be provided if activities duplicate services that the client is receiving from some other resource. Coordination and/or referrals to appropriate health care providers will occur as necessary.

(5) The registered nurse providing this service will not perform skilled treatment except in the event of an emergency. The need for any skilled medical or nursing treatments will be referred to a health care provider, a home health agency or a contracted delegating nurse.

(6) The registered nurse must document the result of the nursing service provided on a department-approved form. The registered nurse provides a copy to the staff who has case management responsibility.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0202 Long-term care services—Definitions. The department shall use the definition in this section for long-term care services.

"Long-term care services" means the services administered directly or through contract by the aging and adult ser-

vices administration of the department, including but not limited to nursing facility care and home and community services.

"Aged person" means a person sixty-five years of age or older.

"Agency provider" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to a client in the client's own home.

"Application" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant shall submit the request on a form prescribed by the department.

"Assessment" or **"reassessment"** means an inventory and evaluation of abilities and needs based on an in-person interview in the client's own home or other place of residence.

"Attendant care" means the chore personal care service provided to a grandfathered client needing full-time care due to the client's need for:

- (1) Assistance with personal care; or
- (2) Protective supervision due to confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume such as management of property and financial affairs.

"Authorization" means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

~~("Available resources" is a term to describe a chore personal care client's assets accessible for use and conversion into money or its equivalent without significant depreciation in the property value.)~~

"Blind person" means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Categorically needy" means the financial status of a person as defined under WAC 388-503-0310.

"Client" means an applicant for service or a person currently receiving services.

"Community residence" means:

- (1) The client's **"own home"** as defined in this section;
- (2) Licensed adult family home under department contract;
- (3) Licensed boarding home under department contract;
- (4) Licensed children's foster home;
- (5) Licensed group care facility, as described in chapter 388-148 WAC; or
- (6) Shared living arrangement as defined in this section.

"Community spouse" means a person as described under WAC 388-513-1365 (1)(b).

"Companionship" means the activity of a person in a client's own home to prevent the client's loneliness or to

accompany the client outside the home for other than personal care services.

"Contracted program" means services provided by a licensed and contracted home care agency or home health agency.

"COPES" means community options program entry system.

"Department" means the state department of social and health services.

"Direct personal care services" means verbal or physical assistance with tasks involving direct client care which are directly related to the client's handicapping condition. Such assistance is limited to allowable help with the tasks of ambulation, bathing, body care, dressing, eating, personal hygiene, positioning, self-medication, toileting, transfer, as defined in **"personal care services"** below.

"Disabled" means a person determined disabled as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Disabling condition" means a condition which prevents a person from self-performance of personal care tasks without assistance.

"Estate recovery" means the department's activity in recouping funds after the client's death which were expended for long-term care services provided to the client during the client's lifetime per WAC 388-527-2742.

"Grandfathered client" means a chore personal care services client approved for either:

- (1) Attendant care services provided under the chore personal care program when these services began before April 1, 1988; and
- (2) Family care services provided under the chore personal care program when these services began before December 14, 1987; and
- (3) The client was receiving the same services as of June 30, 1989.

"Home health agency" means a licensed:

(1) Agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

(2) Home health agency, certified or not certified under Medicare, contracted and authorized to provide:

- (a) Private duty nursing; or
- (b) Skilled nursing services under an approved Medicaid waiver program.

"Household assistance" means assistance with incidental household tasks provided as an integral, but subordinate part of the personal care furnished directly to a client by and through the long-term care programs as described in this chapter. Household assistance is considered an integral part of personal care when such assistance is directly related to the client's medical or mental health condition, is reflected in the client's service plan, and is provided only when a client is assessed as needing personal care assistance with one or more direct personal care tasks. Household assistance tasks include

travel to medical services, essential shopping, meal preparation, laundry, housework, and wood supply.

"Income" means **"income"** as defined under WAC 388-500-0005.

"Individual provider" means a person employed by a community options program entry system (COPES) or Medicaid personal care client when the person:

(1) Meets or exceeds the qualifications as defined under WAC 388-71-0500 through 388-71-0580;

(2) Has signed an agreement to provide personal care services to a client; and

(3) Has been authorized payment for the services provided in accordance with the client's service plan.

"Individual provider program (IPP)" means a method of chore personal care service delivery where the client employs and supervises the chore personal care service provider.

"Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. **"Institution"** includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

"Institutional eligible client" means a person whose eligibility is determined under WAC 388-513-1315.

"Institutionalized client" means the same as defined in WAC 388-513-1365(f).

"Institutional spouse" means a person described under WAC 388-513-1365 (1)(e).

"Medicaid" means the federal aid Title XIX program under which medical care is provided to:

(1) Categorically needy as defined under WAC 388-503-0310; and

(2) Medically needy as defined under WAC 388-503-0320.

"Medical assistance" means the federal aid Title XIX program under which medical care is provided to the categorically needy as defined under WAC 388-503-0310 and 388-503-1105.

"Medical institution" means an institution defined under WAC 388-500-0005.

"Medically necessary" and **"medical necessity"** mean the same as defined under WAC 388-500-0005.

"Medically oriented tasks" means direct personal care services and household assistance provided as an integral but subordinate part of the personal care and supervision furnished directly to a client.

"Mental health professional" means a person defined under WAC 388-865-0150.

"Own home" means the client's present or intended place of residence:

(1) In a building the client rents and the rental is not contingent upon the purchase of personal care services as defined in this section; or

(2) In a building the client owns; or

(3) In a relative's established residence; or

(4) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

"Personal care aide" means a person meeting the department's qualification and training requirements and providing direct ((Medicaid)) personal care services to a client. The personal care aide may be an employee of a contracted agency provider or may be an individual provider employed by the ((Medicaid personal care)) client.

"Personal care services" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks and household tasks, as listed in (1) through (17) of this subsection. Such services may be provided for clients who are functionally unable to perform all or part of such tasks or who are incapable of performing the tasks without specific instructions. Personal care services do not include assistance with tasks performed by a licensed health professional.

(1) **"Ambulation"** means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant or standby physical assistance to the client if totally unable to walk alone or with a mechanical device.

(2) **"Bathing"** means assisting a client to wash. Bathing includes supervising the client able to bathe when guided, assisting the client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(3) **"Body care"** means assisting the client with exercises, skin care including the application of nonprescribed ointments or lotions, changing dry bandages or dressings when professional judgment is not required and pedicure to trim toenails and apply lotion to feet. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services, dressing changes using clean technique and topical ointments must be delegated by a registered nurse in accordance with chapter 246-840 WAC. **"Body care"** excludes:

(a) Foot care for clients who are diabetic or have poor circulation; or

(b) Changing bandages or dressings when sterile procedures are required.

(4) **"Dressing"** means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(5) **"Eating"** means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(6) **"Essential shopping"** means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food,

medical necessities, and household items required specifically for the health, maintenance, and well-being of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(7) "**Housework**" means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(8) "**Laundry**" means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(9) "**Meal preparation**" means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(10) "**Personal hygiene**" means assistance with care of hair, teeth, dentures, shaving, filing of nails, and other basic personal hygiene and grooming needs. Personal hygiene includes supervising the client when performing the tasks, assisting the client to care for the client's own appearance, and performing grooming tasks for the client when the client is unable to care for own appearance.

(11) "**Positioning**" means assisting the client to assume a desired position, assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits or exercises to maintain the highest level of functioning which has already been attained and/or to prevent the decline in physical functional level. (Range of motion ordered as part of a physical therapy treatment is not included.)

(12) "**Self-medication**" means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(13) "**Supervision**" means being available to:

(a) Help the client with personal care tasks that cannot be scheduled, such as toileting, ambulation, transfer, positioning, some medication assistance; and

(b) Provide protective supervision to a client who cannot be left alone because of impaired judgment.

(14) "**Toileting**" means assistance with bladder or bowel functions. Toileting includes guidance when the client is able to care for own toileting needs, helping client to and from the bathroom, assisting with bedpan routines, using incontinent briefs on client, and lifting client on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the client when client is able to supervise the activities. In adult family homes or

in licensed boarding homes contracting with DSHS to provide assisted living services colostomy care and catheterization using clean technique must be delegated by a registered nurse in accordance with chapter 246-840 WAC.

(15) "**Transfer**" means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(16) "**Travel to medical services**" means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(17) "**Wood supply**" means splitting, stacking, or carrying wood for the client when the client uses wood as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. The department shall not allow payment for a provider to use a chain saw or to fell trees.

"**Physician**" means a doctor of medicine, osteopathy, or podiatry, as defined under WAC 388-500-0005.

"**Plan of care**" means a "**service plan**" as described under WAC ((388-71-205)) 388-71-0205.

"**Property owned**" means any real and personal property and other assets over which the client has any legal title or interest.

"**Provider**" or "**provider of service**" means an institution, agency, or person:

(1) Having a signed department agreement to furnish long-term care client services; and

(2) Qualified and eligible to receive department payment.

"**Relative**" means:

(1) For chore personal care service, a client's spouse, father, mother, son, or daughter;

(2) For Medicaid personal care service:

(a) "**Legally responsible relative**" means a spouse caring for a spouse or a biological, adoptive, or stepparent caring for a minor child.

(b) "**Nonresponsible relative**" means a parent caring for an adult child and an adult child caring for a parent.

"**Service plan**" means a plan for long-term care service delivery as described under WAC ((388-71-205)) 388-71-0205.

"**Shared living arrangement**" for purposes of Medicaid personal care means an arrangement where:

(1) A nonresponsible relative as defined in "**relative**" above is the personal care provider and resides in the same residence with common facilities, such as living, cooking, and eating areas; or

(2) A minor child age seventeen or younger lives in the home of a legally responsible relative as defined in "**relative**" above.

"**SSI-related**" means a person who is aged, blind, or disabled.

"**Supervision**" means a person available to a long-term care client as defined under "**personal care services**."

"**Supplemental Security Income (SSI)**" means the federal program as described under WAC 388-500-0005.

"**Title XIX**" is the portion of the federal Social Security Act which authorizes federal funding for medical assistance programs, e.g., nursing facility care, COPES, Medically Needy Residential waiver and Medicaid personal care home and community-based services.

"**Transfer of resources**" means the same as defined under WAC 388-513-1365 (1)(g).

"**Unscheduled tasks**" means ambulation, toileting, transfer, positioning, and unscheduled medication assistance as described in this chapter.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0203 Long-term care services—Assessment of task self-performance and determination of required assistance. (1) Purpose. The assessor as identified in subsection (2)(a) of this section shall:

(a) Identify client strengths to maximize current strengths and promote client independence;

(b) Evaluate physical health, functional and cognitive abilities, social resources and emotional and social functioning for service planning for long-term care;

(c) Identify client values and preferences for effective service planning based on the person's values and lifestyles; and

(d) Determine client's need for informal support, community support and services, and department paid services.

(2) Assessment responsibility.

(a) Department staff or designee while assessing need for case management shall perform the assessment.

(b) Except for adult protective service, the assessors shall perform a separate assessment for each client.

(c) The assessors shall document the assessment on a prescribed form.

(d) The assessors shall perform the assessment based on an in-person interview with the client in the client's home. A case manager may request the assessment be conducted in private.

(e) When performing the assessment, the assessors shall take into account the client's:

(i) Risk of and eligibility for nursing facility placement;

(ii) Health status, psychological/social/cognitive functioning, income and resources, and functional abilities;

(iii) Living situation; and

(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(3) The adult client's functional ability to self-perform each personal care task and household task shall be determined using the following definitions of the assistance required:

(a) Ambulation:

(i) Independent. The client is mobile, with or without an assistive device, both inside and outside the household without the assistance of another person.

(ii) Minimal. The client is mobile inside without assistance but needs the assistance of another person outside; or the client needs occasional assistance of another person inside, and usually needs assistance of another person outside.

(iii) Substantial. The client is only mobile with regular assistance of another person both inside and outside.

(iv) Total. The client is not mobile.

(b) Bathing:

(i) Independent. The client can bathe self.

(ii) Minimal. The client requires oversight help or reminding only. The client can bathe without assistance or supervision, but must be reminded some of the time; or the client cannot get into the tub alone and physical help is limited to stand-by assist only.

(iii) Substantial. The client requires physical help in a large part of the bathing activity, for example, to lather, wash, and/or rinse own body or hair.

(iv) Total. The client is dependent on others to provide a complete bath.

(c) Body care:

(i) Independent. The client can apply ointment, lotion, change bandages or dressings, and perform exercises without assistance.

(ii) Minimal. The client requires oversight help or reminding only, or requires occasional assistance.

(iii) Substantial. The client requires limited physical help to apply ointment, lotion, or to perform dry bandage or dressing change.

(iv) Total. The client is dependent on others to perform all required body care.

(d) Dressing:

(i) Independent. The client can dress and undress without assistance or supervision.

(ii) Minimal. The client can dress and undress, but may need to be reminded or supervised to do so on some days; the client can assist dressing and undressing, but frequently or most of the time needs some physical assistance.

(iii) Substantial. The client always needs assistance to do parts of dressing and undressing.

(iv) Total. The client is dependent on others to do all dressing and undressing.

(e) Eating:

(i) Independent. The client can feed self, chew and swallow solid foods without difficulty, or can feed self by stomach tube or catheter.

(ii) Minimal. The client:

(A) Can feed self, chew and swallow foods, but needs reminding to maintain adequate intake;

(B) May need food cut up;

(C) Can feed self only if food is brought to the client.

(iii) Substantial. The client:

(A) Can feed self but needs standby assistance for occasional gagging, choking, or swallowing difficulty; or

(B) Needs reminders/assistance with adaptive feeding equipment; or

(C) Must be fed some or all food by mouth by another person.

(iv) Total. The client must be totally fed by another person and/or frequently gags or chokes due to difficulty in

swallowing; or the client must be fed by another person by stomach tube or by venous access.

(f) Essential shopping:

(i) Independent. The client can drive and is licensed or the client is capable of using public transportation.

(ii) Minimal. The client can use available transportation and does not need assistance with shopping, but needs instructions or physical assistance to get to or from transportation vehicle.

(iii) Substantial. The client is dependent on being accompanied or helped by others to access community shops and needs assistance with shopping.

(iv) Total. The client is totally dependent on others to do essential shopping.

(g) Housework:

(i) Independent. The client can perform essential housework.

(ii) Minimal. The client needs assistance or needs cuing or supervision in self-performance of essential housework one or two times per month in client use areas.

(iii) Substantial. The client needs weekly assistance of another with essential housework in client use areas.

(iv) Total. The client is dependent on others to do all housework in client use areas.

(h) Laundry:

(i) Independent. The client is capable of using available laundry facilities.

(ii) Minimal. The client is physically capable of using laundry facilities, but requires cuing and/or supervision.

(iii) Substantial. The client is not able to use laundry facilities without physical assistance.

(iv) Total. The client is dependent upon others to do all laundry.

(i) Meal preparation:

(i) Independent. The client can prepare and cook required meals.

(ii) Minimal. The client requires some instruction or physical assistance to prepare meals.

(iii) Substantial. The client can participate but needs substantial assistance to prepare meals.

(iv) Total. The client cannot prepare or participate in preparation of meals.

(j) Personal hygiene:

(i) Independent. The client can manage personal hygiene and grooming tasks on a regular basis.

(ii) Minimal. The client can manage their personal hygiene and grooming but must be reminded or supervised at least some of the time; the client regularly requires some limited assistance with both personal hygiene and grooming.

(iii) Substantial. The client regularly requires assistance with personal hygiene and grooming and cooperates in the process.

(iv) Total. The client is dependent on others to provide all personal hygiene and grooming.

(k) Positioning:

(i) Independent. The client can move to and from a lying position, position their body in bed, and get into and out of bed and chairs.

(ii) Minimal. The client can move to and from a lying position, turn from side to side, and position their body while in bed and chairs but requires assistance some of the time.

(iii) Substantial. The client needs occasional assistance to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(iv) Total. The client needs assistance most or all of the time to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(l) Self-medication:

(i) Independent. The client can take own medications or does not take medication.

(ii) Minimal. The client is physically able to take medications but requires another person to:

(A) Remind, monitor, or observe the taking of medications less than daily; or

(B) Open a container, lay out, or organize medications less than daily.

(iii) Substantial. The client can physically take medications, but requires another person to either remind, monitor, or observe the taking of medications daily; or the client can physically take medications if another person daily opens containers, lays out, organizes medications.

(iv) Total. The client cannot physically take medications and requires another person to assist and administer all medications.

(m) Toileting:

(i) Independent. The client can use the toilet without physical assistance or supervision; or the client can manage own closed drainage system if the system has a catheter or sheath; or the client uses and manages protective aids. The client may need grab bars or raised toilet seat.

(ii) Minimal. The client needs stand-by assistance for safety or encouragement. The client may need minimal physical assistance with parts of the task, such as clothing adjustment, washing hands, wiping, and cleansing. The client may need a protective garment and may or may not be aware of this need.

(iii) Substantial. The client cannot get to the toilet without assistance; or the client needs substantial physical assistance with part of the task; or the client needs someone else to manage care of a closed drainage system if it has a catheter or sheath. The client may or may not be aware of own needs.

(iv) Total. The client is physically unable to use toilet. Requires continual observation and total cleansing. The client may require protective garments or padding or linen changes. The client may or may not be aware of own needs.

(n) Transfer:

(i) Independent. The client can transfer without physical assistance.

(ii) Minimal. The client transfers without assistance most of the time, but needs assistance on occasion.

(iii) Substantial. The client can assist with own transfers, but frequently or most of the time needs assistance.

(iv) Total. The client transfers must be done by someone else.

(o) Travel to medical services:

(i) Independent. The client can drive and is licensed; or is capable of using available public transportation.

(ii) Minimal. The client cannot drive or can drive but should not; or public transportation is not available.

(iii) Substantial. The client requires physical assistance or supervision to both get into and out of a vehicle, but can use the transportation without assistance during the trip.

(iv) Total. The client is totally dependent on being accompanied or helped by others during the trip.

(p) Wood supply:

(i) Independent. The client does not rely on wood as the sole fuel source or is capable of splitting, stacking, or carrying wood for heating or cooking.

(ii) Minimal. The client can carry wood but needs occasional assistance with splitting or stacking wood.

(iii) Substantial. The client is not able to carry, split, or stack wood, but is able to use the wood supply once it is inside the residence.

(iv) Total. The client is dependent on another person to establish and maintain heat for cooking or residential heating.

(4) Scoring of functional abilities and supports.

(a) For each direct personal care service and household assistance task listed on the assessment form, the assessor shall determine:

(i) The client's ability to perform each activity;

(ii) Assistance available to the client through alternative resources, including families, friends, neighbors, community programs, and unpaid caregivers; and

(iii) Assistance needed from department programs after alternative resources have been taken into account.

(b) The assessor shall award points for each task based on the level of unmet need. The number of points allowable for each task are listed below under columns identified as 0 = none, M = minimal, S = substantial, and T = total:

TASK	0	M	S	T
Eating				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15
Toileting	0	5	10	15
Ambulation	0	4	7	10
Transfer	0	1	3	5
Positioning	0	1	3	5
Body care	0	5	10	15
Personal hygiene	0	1	3	5
Dressing	0	4	7	10
Bathing	0	4	7	10
Self-medication	0	2	4	6
Travel to medical services	0	1	2	3
Essential shopping	0	5	10	15
With client				
or				
For client	0	1	3	5
Meal preparation	0	4	7	10
Breakfast				
Light meal	0	4	7	10

TASK	0	M	S	T
Main meal	0	5	10	15
Laundry	0	1	2	3
Facilities in home				
or				
Facilities out of home	0	3	5	7
Housework	0	1	2	3
Wood supply		3	5	7

(c) The assessor shall add together the points awarded for each task to obtain the total score for the applicant or client.

(5) Hour computation. The assessor shall:

(a) Convert the total score into maximum hours per month which may be authorized using the scoring conversion chart.

Scoring Conversion Chart

MAXIMUM		MAXIMUM		MAXIMUM	
Score	Hours	Score	Hours	Score	Hours
1 - 4	5	60 - 64	44	120 - 124	83
5 - 9	8	65 - 69	47	125 - 129	87
10 - 14	11	70 - 74	51	130 - 134	90
15 - 19	14	75 - 79	54	135 - 139	93
20 - 24	18	80 - 84	57	140 - 144	97
25 - 29	21	85 - 89	60	145 - 149	100
30 - 34	24	90 - 94	64	150 - 154	103
35 - 39	28	95 - 99	67	155 - 159	106
40 - 44	31	100 - 104	70	160 - 164	110
45 - 49	34	105 - 109	74	165 - 169	113
50 - 54	37	110 - 114	77	170 and	
55 - 59	41	115 - 119	80	Above	116

(b) Recognize conversion hours show client need, and may not reflect department-paid hours as determined by program standards.

(6) The assessor shall determine the client's additional hours of supervision needed:

(a) Due to impaired judgment; and

(b) For standby assistance necessary for unscheduled tasks defined under WAC ((388-71-202)) 388-71-0202; and

(c) Recognize supervision hours show client need, and may not reflect department paid hours as determined by program standards.

(7) Department staff or the department's designee shall authorize services to correspond with the client's assessed need according to eligibility criteria for aging and adult services administration programs or the eligibility criteria for the division authorizing the service. The department or the department's designee shall notify the client of the right to contest a denial or reduction of services.

(8) Department staff or the department designee shall be responsible for representing the department at any hearing

PERMANENT

involving the assessment or decisions made relating to such assessment.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0405 What are the home and community programs? The HCP are in-home and community residential services funded by:

(1) Community options program entry system (COPEs), ((codified under subsection 1915(c) of the Social Security Act and 42 C.F.R. 441.300 and 310)) authorized under RCW 74.39A.030.

(2) Medicaid personal care services (MPC), ((found)) authorized under RCW 74.09.520 ((and in the Medicaid state plan)).

(3) Chore personal care services, a state-only funded program authorized under RCW ((74.08.090, 74.09.520, and 74.08.570)) 74.39A.110.

(4) Medically Needy Residential waiver, authorized under RCW 74.09.700 and 74.39A.041.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0410 What services may I receive under HCP? You may receive the following HCP services:

(1) For COPEs, MPC or chore: Assistance with personal care tasks and household tasks ((in your own home)), as defined in WAC ((388-71-202)) 388-71-0202; and

(2) For all HCP programs: Assistance with personal care tasks and household tasks in a residential setting, as described in WAC 388-71-0600. Note: Household tasks are included as part of the board and room rate. ((You may receive, under MPC:

(a) Up to thirty hours of personal care services in an adult residential care facility; or

(b) Up to sixty hours of personal care services in an adult family home).

(3) For COPEs, MPC: Personal care assistance when temporarily traveling out of state, as long as:

(a) Your provider is contracted with the state of Washington; and

(b) The travel plans are coordinated with your social service case manager prior to departure; and

(c) Services are authorized on your service plan prior to departure; and

(d) Services are strictly for your personal care, which does not include your provider's travel time, expenses, lodging or subsistence.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0415 What other services may I receive under the COPEs program? In addition to the services listed in WAC 388-71-0410, you may be eligible for other services under the COPEs ((program)) or Medically Needy Residential waiver as indicated in your assessment and documented in your plan of care. Under one of these programs you

may be eligible to receive((:)) the following services in your own home or in your residential setting. Note: The definition of own home as used throughout this section is defined in WAC 388-71-0202. The definition of residential settings is defined in WAC 388-71-0600.

(1) ((Adult day services, in an adult day care or adult day health center if you:

(a) ~~Are ineligible for Medicaid state plan covered adult day health services;~~

(b) ~~Are chronically ill or disabled, socially isolated and/or confused or have mild to moderate dementia; and~~

(c) ~~Meet eligibility requirements for adult day services as required in:~~

(i) ~~WAC 388-15-652, Eligibility for adult day care; or~~

(ii) ~~WAC 388-15-653, Eligibility for adult day health))~~ For COPEs in-home clients, adult day care if you meet the eligibility requirements under WAC 388-15-652 or its successor.

(2) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare and safety;

(b) Enable you to function with greater independence in the home;

(c) Directly benefit you medically or remedially;

(d) Meet applicable state or local codes;

(e) Adaptions or improvements to the home, which are of general utility or add to the total square footage of the home are excluded.

(3) Home delivered meals provides nutritional balanced meals, limited to one meal per day, if:

(a) You are homebound and live in your own home;

(b) You are unable to prepare the meal;

(c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and

(d) Receiving this meal is more cost-effective than having a paid caregiver.

(4) Home health aide service tasks in your own home, if the service tasks:

(a) Include assistance with ambulation, exercise, self-administered medications and hands on personal care;

(b) Are beyond the amount, duration or scope of Medicaid reimbursed home health services (WAC 388-551-2100) and are in addition to those available services; ((and))

(c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit; and

(d) Do not replace Medicare home health services.

(5) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if you:

(a) Live alone in your own home; or

(b) Are alone, in your own home, for significant parts of the day and have no regular provider for extended periods of time.

(6) Skilled nursing in your own home, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100.

(7) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

- (a) Medically necessary under WAC 388-500-0005; and
- (b) Necessary for life support;

~~(b))~~ ; or

(c) Necessary to increase your ability to perform activities of daily living; or

~~((e))~~ (d) Necessary for you to perceive, control, or communicate with the environment in which you live; and

~~((d))~~ (e) Directly medically or remedially beneficial to you; and

~~((e))~~ (f) In addition to and do not replace any medical equipment and/or supplies otherwise provided under ((the state plan)) Medicaid and/or Medicare.

(8) Training needs identified in the comprehensive assessment or in a professional evaluation, if you need to meet a therapeutic goal such as:

- (a) Adjusting to a serious impairment;
- (b) Managing personal care needs; or
- (c) Developing necessary skills to deal with care providers.

(9) Transportation services if you live in your own home, if the service:

(a) Provides ((the client)) you access to community services and resources provided in accordance with a therapeutic goal;

(b) Is not merely diversional in nature;

(c) Is in addition to ((Medicaid brokered transportation to medical services;)) and

~~((d))~~ does not replace the Medicaid-brokered transportation or transportation services available in the community.

(10) For COPES or Medically Needy Residential waiver clients, skilled nursing in a residential setting, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100; and

(c) In addition to and does not replace the services required by DSHS contract in residential settings.

(11) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

- (a) Medically necessary under WAC 388-500-0005; and
- (b) Necessary for life support; or

(c) Necessary to increase your ability to perform activities of daily living; or

(d) Necessary for you to perceive, control, or communicate with the environment in which you live; and

(e) Directly medically or remedially beneficial to you; and

(f) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare; and

(g) In addition to and do not replace the services required by DSHS contract in residential settings.

(12) Training needs identified in the comprehensive assessment or in a professional evaluation, if you need to meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers; and

(d) The service is in addition to and does not replace the services required by DSHS contract in residential settings.

(13) Transportation services if you live in a residential setting, if the service:

(a) Provides you access to community services and resources provided in accordance with a therapeutic goal;

(b) Is not merely diversional in nature;

(c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community; and

(d) Does not replace the services required by DSHS contract in residential settings.

Note: Clients who reside in enhanced residential care, assisted living or adult family homes are not eligible for waiver funded adult day care.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0420 What services are not covered under HCP? HCP does not cover the following services:

(1) For chore personal care and MPC:

(a) Teaching, including teaching how to perform personal care tasks;

(b) Development of social, behavioral, recreational, communication, or other types of community living skills;

(c) Nursing care.

(2) Personal care services provided outside of your residence, unless ((they)) the services are authorized in your written service plan.

(3) Child care;

(4) Sterile procedures, administration of medications, or other tasks requiring a licensed health professional, unless authorized as an approved nursing delegation task, client self-directed care task, or provided by a family member;

(5) Services provided over the telephone;

(6) Services provided outside the state of Washington if ((COPES or)) chore personal care;

(7) Services to assist other household members not eligible for services;

(8) Yard care.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0425 Who can provide HCP services? The following types of providers may provide COPES, MPC, or chore services:

(1) ((Individual)) For in-home clients, individual providers, who must meet the requirements outlined in WAC 388-71-0500 through 388-71-0580;

PERMANENT

(2) For in-home clients, home care agencies, which must be licensed under chapters 70.127 RCW and 246-336 WAC, or home health agencies, licensed under chapters 70.127 RCW and 246-327 WAC;

(3) For residential clients, licensed adult family home and boarding home providers who are contracted with DSHS (see WAC 388-71-0600); and

(4) As applicable, service providers who have contracted with the AAA to perform other waiver services under COPEs or Medically Needy Residential waiver services listed in WAC 388-71-0415.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0430 Am I eligible for one of the HCP programs? You are eligible to receive HCP services if you meet the functional and financial eligibility requirements in WAC 388-71-0435 for COPEs, WAC 388-71-0442 for Medically Needy Residential waiver, WAC 388-71-0440 for MPC, or WAC 388-71-0445 for Chore. Functional eligibility for all (~~three~~) four programs is determined through an assessment as provided under WAC (~~(388-71-203)~~) 388-71-0203. Your eligibility begins upon the date of the department's service authorization.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0435 Am I eligible for COPEs-funded services? You are eligible for COPEs-funded services if you meet all of the following criteria. The department or its designee must assess your needs and determine that:

(1) You are age:

(a) Eighteen or older and blind or disabled, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet financial eligibility requirements(~~(-This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1505, Community options program entry system (COPEs))~~) as defined in WAC 388-515-1505.

(3) You:

(a) Are not eligible for Medicaid personal care services;

or
(b) Are eligible for Medicaid personal care services, but the department determines that the amount, duration, or scope of your needs is beyond what Medicaid personal care can provide.

(4) Your comprehensive assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless (~~(COPEs)~~) waiver services are provided) which means one of the following applies. You:

(a) Require care provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis;

(b) Have an unmet need requiring substantial or total assistance with at least two or more of the following activities

of daily living (ADLS) as defined in WAC (~~(388-71-202 and 388-71-203)~~) 388-71-0202 and 388-71-0203:

(i) Eating,

(ii) Toileting,

(iii) Ambulation,

(iv) Transfer,

(v) Positioning,

(vi) Bathing, and

(vii) Self-medication.

(c) Have an unmet need requiring minimal, substantial or total assistance in three or more of the ADLS listed in subsection (4)(b)(i) through (vii) of this section; or

(d) Have:

(i) A cognitive impairment and require supervision due to one or more of the following: disorientation, memory impairment, impaired judgment, or wandering; and

(ii) An unmet need requiring substantial or total assistance with one or more of the ADLS listed in subsection (4)(b)(i) through (vii) of this section.

(5) You have a completed service plan, per WAC (~~(388-71-205)~~) 388-71-0205.

NEW SECTION

WAC 388-71-0442 Am I eligible for Medically Needy Residential waiver services? You are eligible for Medically Needy Residential waiver services if you will be receiving services in a residential setting and meet all of the following criteria. The department or its designee must assess your needs and determine that:

(1) You are age:

(a) Eighteen or older and blind or disabled, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet the financial eligibility requirements defined in WAC 388-515-1540.

(3) You are not eligible for Medicaid personal care services or COPEs.

(4) You meet the functional criteria for nursing facility level of care as defined in WAC 388-71-0435(4).

(5) You have a completed service plan, per WAC 388-71-0205.

(6) Note: Depending on the number of available spaces, you may be placed on a waiting list.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0445 Am I eligible for Chore-funded services? To be eligible for Chore-funded services, you must:

(1) Be eighteen years of age or older;

(2) Require assistance with at least one of the direct personal care tasks listed in WAC (~~(388-71-202)~~) 388-71-0202;

(3) Not be eligible for MPC or COPEs, Medically Needy Residential waiver, Medicare home health or other programs if these programs can meet your needs;

(4) Have net household income (as described in WAC 388-450-0005, 388-450-0020, 388-450-0040, and 388-511-1130) not exceeding:

- (a) The sum of the cost of your chore services, and
- (b) One-hundred percent of the FPL adjusted for family size.

(5) Have resources, as described in chapter 388-470 WAC, which does not exceed ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. (Note: One thousand dollars for each additional family member may be added to these limits.)

(6) Not transfer assets on or after November 1, 1995 for less than fair market value as described in WAC 388-513-1365.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0465 Are there waiting lists for HCP services? ((If you are receiving)) For:

(1) COPEs services, a waiting list may be created if:
(a) The caseload or expenditures exceed the legislative funding, or

(b) ((HCFA)) The federal Centers for Medicare and Medicaid Services (CMS) or the legislature imposes caseload limits.

~~(2) ((Chore services, a waiting list may be created to maintain the monthly expenditures within the legislative appropriation. You receive priority if you:~~

~~(a) Have received chore as of June 30, 1995; or~~

~~(b) Need chore:~~

~~(i) To return to the community from a nursing home;~~

~~(ii) To prevent unnecessary nursing home placement; or~~

~~(iii) For protection based on referral from an APS investigation.~~

~~(3)) MPC, there is no waiting list. Note: Instead of waiting lists, the department may be required to revise HCP rules to reduce caseload size, hours, rates, or payments in order to stay within the legislative appropriation.~~

(3) For Medically Needy Residential waiver, the department will create a waiting list in accordance with caseload limits determined by legislative funding. Wait listed clients will be ranked in the following manner:

(a) Nursing home residents wanting MN waiver services will be ranked first on the wait list by date of application for services; and

(b) After nursing home residents are ranked, clients living in the community with a higher level of need as determined by the comprehensive assessment will be ranked higher on the wait list over clients with lower level of need; and

(c) As between two or more clients in the community with equal need levels, clients with earlier applications for services will have priority over later applications for services.

AMENDATORY SECTION (Amending WSR 00-18-099, filed 9/5/00, effective 10/6/00)

WAC 388-71-0470 Who pays for HCP services? Depending on your income and resources, you may be required to pay participation toward the cost of your care. The department determines exactly what amount, if any, you pay. If you are receiving:

(1) COPEs in-home or residential,

(a) You participate income per rules in WAC 388-515-1505;

(b) If you have nonexempt income that exceeds the cost of COPEs services, you may retain the difference.

(2) MPC in-home services, you do not participate toward the cost of your personal care services.

(3) MPC services in a residential setting and you are:

(a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of at least thirty-eight dollars and eighty-four cents per month.

(b) An SSI beneficiary who receives SSI and SSA benefits, you only pay for board and room. You are allowed to keep a personal needs allowance of at least fifty-eight dollars and eighty-four cents per month.

(c) An SSI-related person per WAC 388-511-1105, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate (~~plus add-on hours~~). You will receive a personal allowance of fifty-eight dollars and eighty-four cents.

(d) A GA-X client in a residential care facility, you are allowed to keep a personal allowance of thirty-eight dollars and eighty-four cents only per month. The remainder of your grant must be paid to the facility.

(4) Medically Needy Residential waiver services, the amount you pay is determined in WAC 388-515-1540.

(5) Chore services, you may retain an amount equal to one hundred percent of the federal poverty level, adjusted for family size, as the home maintenance allowance and pay the difference between the FPL and your **nonexempt** income. Exempt income includes:

(a) Income listed in WAC 388-513-1340;

(b) Spousal income allocated and actually paid as participation in the cost of the spouse's community options program entry system (COPEs) services;

(c) Amounts paid for medical expenses not subject to third party payment;

(d) Health insurance premiums, coinsurance or deductible charges; and

(e) If applicable, those work expense deductions listed as WAC 388-71-480(2).

AMENDATORY SECTION (Amending WSR 00-18-099, filed 9/5/00, effective 10/6/00)

WAC 388-71-0480 If I am employed, can I still receive HCP services? If you are disabled, as determined under WAC 388-511-1105, you may be employed and still be eligible to receive HCP services.

(1) If you remain Medicaid eligible under the categorically needy program, you are financially eligible for MPC services.

(2) If you are receiving Medically Needy Residential waiver services in a residential setting, you may have earned income allowances per WAC 388-515-1540.

(3) If you are not Medicaid eligible due to your earned income and resources, ~~((you may be eligible to receive))~~ and are receiving chore personal care services.

(a) You may be required to pay participation per WAC 388-71-0470(4) for any earned income above one hundred percent of the federal poverty level.

(b) The department will exempt fifty percent of your earned income after work expense deductions. Work expense deductions are:

(i) Personal work expenses in the form of self-employment taxes (FICA); and income taxes when paid;

(ii) Payroll deductions required by law or as a condition of employment in the amounts actually withheld;

(iii) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars;

(iv) Expenses necessary for continued employment such as tools, materials, union dues, transportation to service customers is not furnished by the employer; and

(v) Uniforms needed on the job and not suitable for wear away from the job.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0600 What are residential services?

The residential service program provides personal care services, as defined in WAC ~~((388-71-202))~~ 388-71-0202, room, board, supervision, and nursing services for elderly and disabled adults. Eligible individuals may choose to receive services from any of the following licensed and contracted residential settings:

(1) **Adult family homes** with a state contract provide services for two to six unrelated adults (chapter 388-76 WAC). Services include room, board and supervision. Residents may also receive limited nursing services, under nurse delegation or if the sponsor or the manager is a nurse. Services are authorized according to the department's comprehensive assessment and service plan.

(2) **Assisted living** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and II). Structural requirements include two hundred twenty square foot private room, private bathroom, and a kitchen in each unit. Resident services may include room, board, assistance with ADL and IADL, and limited nursing services. Services are authorized according to the department's comprehensive assessment and service plan.

(3) **Enhanced adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and III). Services may include a shared room, board, limited nursing services, assistance with ADL and IADL, limited nursing services, and supervision. Services are authorized according to the department's comprehensive assessment and service plan.

(4) **Adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and IV). This service is not available under the COPES or MN waiver program. Services ~~((may))~~ include room, board and supervision. Services are authorized

according to the department's comprehensive assessment and service plan.

AMENDATORY SECTION (Amending WSR 01-14-055, filed 6/29/01, effective 7/30/01)

WAC 388-71-0605 Am I eligible for residential services? (1) If you apply for services, you may be eligible to have the department pay for your services through one of the programs listed below. The department assesses and determines your functional and financial eligibility for residential services under one of the following long-term care programs:

(a) Community options program entry system (COPES), described in WAC 388-71-0435; ~~((or))~~

(b) Medicaid personal care funding (MPC), described in WAC 388-71-0440; or

(c) Medically Needy Residential waiver described in WAC 388-71-0442.

(2) If you are not eligible for services under one of the programs listed above, you may receive state-only funding for residential services if you meet eligibility requirements for general assistance unemployable (GAU), described in WAC ~~((388-235-5000))~~ 388-400-0025.

(3) If you are on:

(a) MPC, you can receive services in adult family homes and adult residential care facilities.

Note: If you are under eighteen, you may receive MPC services in a children's foster family home or a children's group care facility.

(b) COPES/Medically Needy Residential waiver, you can receive services in adult family homes, enhanced adult residential care facilities, and assisted living facilities.

(c) GAU, you can receive state-funded services in adult family homes and adult residential care facilities.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0610 Who pays for residential care?

You must use your income to pay for your room and board and services. You are allowed to keep some of your income for ~~((clothing and))~~ personal ~~((incidental (CPI)))~~ needs allowance (PNA). The department determines the amount of ~~((CPI))~~ PNA that you may keep. Rules regarding the amount you must pay or CPI are found in WAC 388-513-1380; 388-515-1505 for COPES; 388-515-1540 for Medically Needy Residential waiver, or 388-478-0045 for all other programs.

(1) The department pays the facility for the difference between what you pay and the department-set rate for the facility. AASA published rates and program rules establish your total hours and how much the department pays toward the cost of your services.

(2) Washington state collects from your estate the cost of the care that the department provides based on chapter 388-527 WAC.

WSR 03-14-013
PERMANENT RULES
BELLEVUE COMMUNITY COLLEGE

[Filed June 19, 2003, 11:29 a.m.]

Date of Adoption: June 18, 2003.

Purpose: Deletes the current discrimination complaint procedure codified in WAC 132H-152-135 and replaces it with chapter 132H-155 WAC which has a more streamlined process that is easier to use.

Citation of Existing Rules Affected by this Order: Repealing WAC 132H-152-135.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 03-08-020 on March 26, 2003.

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 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 7, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

June 18, 2003

Elise J. Erickson
Rules Coordinator

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132H-152-135	Discrimination complaint procedure
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NEW SECTION

WAC 132H-155-010 Title. WAC 132H-155-010 through 132H-155- shall be known as the discrimination complaint procedure of Bellevue Community College.

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

NEW SECTION

WAC 132H-155-020 Purpose. It is the policy of Bellevue Community College to provide clear and accurate information, provide accessible services, and offer excellent educational programs and quality service.

Bellevue Community College, through its affirmative action policy and general policy on sexual harassment, and in

accordance with state and federal regulations, prohibits discrimination against students and employees on the basis of race or ethnicity, creed, color, national origin, sex, marital status, sexual orientation, age, religion, the presence of sensory, mental or physical disability, or status as a disabled or Vietnam-era veteran.

BCC employees are responsible for ensuring that their conduct does not discriminate against anyone; they are expected to treat people conducting business at Bellevue Community College with respect and may expect the same consideration, in return.

NEW SECTION

WAC 132H-155-030 Informal complaint process.

The purpose of this step is to enable an individual to express and resolve misunderstandings, complaints or grievances at the lowest level possible by speaking directly with the employee or departmental supervisor. The aggrieved person should make an appointment to talk directly with the employee to attempt to reach a mutual agreement. In some situations, the aggrieved person may be more comfortable requesting a meeting with the employee's supervisor, instead. Both parties should be courteous, flexible and respectful, as concerns are identified and possible resolutions discussed. Both sides should be open to alternative solutions or suggestions. If the problem cannot be solved together, the following formal complaint procedures may be used.

NEW SECTION

WAC 132H-155-040 How to file a discrimination complaint. Whenever a complaint alleges discrimination or sexual harassment, this procedure should be used rather than the other complaint procedures. Alleged Title IX and Section 503 violations as well as other discrimination complaints will be investigated under this procedure. A student or member of the

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

NEW SECTION

WAC 132H-155-050 Formal discrimination complaint procedure. Discrimination complaints should be filed within one year after the incident(s) occurred. The college will act promptly to investigate the complaint and will attempt to protect the rights of the individual bringing the complaint (the complainant), the alleged discriminator, and any witnesses involved. All parties involved have the right to protection from any retaliating behavior by the alleged discriminator or any college employee. All complaints shall be kept as confidential as is reasonably possible during the investigation/resolution process. However, complaints may be subject to public disclosure under the state's Public Disclosure Act, and therefore the college cannot assure confidentiality to any participant in the process.

If administrators or supervisors become aware that discrimination is occurring, receive a complaint, or obtain other

information indicating possible discrimination, they must notify the vice president of human resources as soon as reasonably possible, to ensure that the matter is addressed, even if the problem or alleged problem is not within their area of responsibility and authority.

Complainants, individuals charged, and any witnesses are entitled to representation of their selection throughout the complaint process. The individual charged will be informed that his/her bargaining unit representative will be notified that a complaint has been filed against him/her, unless he/she requests that no notification be made.

Within seven days after the formal complaint has been filed, the individual charged, his/her immediate supervisor and the area dean/vice president will be notified that a complaint has been filed.

The complainant may request an alternate dispute resolution process prior to or in lieu of the investigatory process outlined below. The vice president of human resources or designee (the investigator) will conduct interviews with the complainant, the alleged discriminator, and any witnesses to allegations identified by the complainant and the alleged discriminator. Reasonable efforts will be made to complete such interviews within ninety days.

The report summarizing the findings of the investigation and the determination as to whether or not discrimination has occurred shall be forwarded to the appropriate area dean/vice president.

The decision regarding what action to take on the complaint, including, but not limited to, appropriate corrective measures and/or disciplinary action shall be made by the area dean/vice president and reported to the complainant. Copies of the determination shall be sent to the complainant, alleged discriminator, the alleged discriminator's supervisor and the vice president of human resources. Reasonable efforts will be made to take action on the complaint within thirty days after receipt of the report. If a decision is made to take disciplinary action, such action shall be taken in accordance with appropriate college procedures and collective bargaining agreements.

NEW SECTION

WAC 132H-155-060 Appeal. Appeals of any disciplinary action, including any finding that discrimination occurred, may be made through the appropriate employee contract or the student code.

If the complainant is not satisfied with the disposition of the complaint, she/he may file a written appeal to the president within ten days after notification of the disposition of the complaint. This request should include any and all additional information s/he wants the president to consider. The decision regarding the appeal, including appropriate corrective measures, shall be made in writing by the president within fifteen days after receipt of an appeal.

NEW SECTION

WAC 132H-155-070 External complaint. Any student, employee, applicant for admission or employment, or member of the public using BCC facilities who believes

he/she has been discriminated against has the right to bypass the internal college process and file a discrimination complaint with one of the agencies listed below or any other agency with the jurisdiction to hear such complaints. Individuals seeking assistance from state and federal agencies need to be aware that many agencies have strict timelines regarding the filing of complaints.

Equal Employment Opportunity Commission
909 First Avenue, Suite 400
Seattle, WA 98104-1061

Human Rights Commission
1511 Third Avenue, Suite 921
Seattle, WA 98101

U.S. Office of Civil Rights
Department of Education
915 Second Avenue
Seattle, WA 98174-1099

WSR 03-14-014

PERMANENT RULES

BELLEVUE COMMUNITY COLLEGE

[Filed June 19, 2003, 11:31 a.m.]

Date of Adoption: June 18, 2003.

Purpose: Repeals WAC 132H-132-010 through 132H-132-020 that describes how the Bellevue Community College calendar is annually determined. The calendar is now established during faculty negotiations and the practice described in this rule is no longer followed.

Citation of Existing Rules Affected by this Order: Repealing WAC 132H-132-010 through 132H-132-020.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 03-08-019 on March 26, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

June 18, 2003

Elise J. Erickson
Rules Coordinator

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 132H-132-010 Title.
- WAC 132H-132-020 Bellevue Community College calendar.

WSR 03-14-015
PERMANENT RULES
BELLEVUE COMMUNITY COLLEGE

[Filed June 19, 2003, 11:32 a.m.]

Date of Adoption: June 18, 2003.

Purpose: The student code of Bellevue Community College identifies the rights, responsibilities and potential consequences for inappropriate actions for students attending Bellevue Community College. It has been amended to include new definitions and instructions pertaining to electronic media, distance education and property.

Citation of Existing Rules Affected by this Order: Amending WAC 132H-120-020 through 132H-120-310.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 03-08-021 on March 26, 2003.

Changes Other than Editing from Proposed to Adopted Version: Language was stricken from WAC 132H-120-020(5). A line was added at WAC 132H-120-050 [(1)](vi). Language was amended on WAC 132H-120-300(5).

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 8, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, 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 8, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 18, 2003

Elise J. Erickson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-020 Preamble. Bellevue Community College is maintained by the state of Washington for the purpose of providing its students with appropriate learning programs which will facilitate the orderly pursuit and achieve-

ment of their educational objectives. The college is dedicated not only to learning and the advancement of knowledge but also to the development of ethically sensitive and responsible persons through policies which encourage independence and maturity.

The student is in the unique position of being a member of the college community and the community at large. Admission to the college carries with it the expectation that students:

- (1) Will (~~((Students will))~~) respect and abide by the laws of the community, state, and nation;
- (2) Will adhere (~~((Adhere))~~) to college rules and regulations which assure the orderly conduct of college affairs;
- (3) Will maintain (~~((Maintain))~~) high standards of integrity and honesty;
- (4) Will respect the rights, privileges, and property of other members of the college community; and
- (5) Will not interfere with legitimate college affairs.

Bellevue Community College may apply sanctions or take other appropriate action only when student conduct (~~((directly and significantly))~~) interferes with the college's:

- (1) Primary educational responsibility of ensuring the opportunity of all members of the college community to attain their educational objectives;
- (2) Subsidiary responsibilities of protecting property, keeping records, providing services, and sponsoring (~~((non-classroom))~~) non-classroom activities, such as lectures, concerts, athletic events and social functions.

An atmosphere of learning and self-development is created by appropriate conditions in the college community. The rights, freedoms and responsibilities in this document are critical ingredients toward the free, creative and spirited educational environment to which the students, faculty, and staff of Bellevue Community College are committed.

AMENDATORY SECTION (Amending WSR 02-10-069, filed 4/26/02)

WAC 132H-120-030 Definitions. As used in this Student Code of Community College District VIII the following words and phrases shall mean:

- (1) "Alcoholic beverages" are any beverages as defined in RCW 66.04.010(15), as now law or hereafter amended.
- ~~((1))~~ (2) "Assembly" (~~((means))~~) is any overt activity engaged in by two or more persons, the object of which is to gain publicity, advocate a view, petition for a cause or disseminate information to any person, persons or groups of persons.

(3) "Associated students" is the student body and such authorized groups organized under the provisions of the constitution and bylaws of the associated students of the college.

~~((2))~~ (4) "Board" means the board of trustees of Community College District (~~((No.))~~) VIII, state of Washington.

~~((3))~~ (5) "College" means Bellevue Community College located within Community College District (~~((No.))~~) VIII, state of Washington.

~~((4))~~ (6) "College property or facilities" (~~((means and includes))~~) are any and all real and personal property that the college owns, uses, controls or operates, (~~((owned or operated by the college and shall include))~~) including all equipment,

PERMANENT

buildings and appurtenances affixed thereon or attached thereto. College property and facilities extend to affiliated websites, distance education classroom environments, and agencies or institutions that have educational agreements with the college.

~~((5))~~ (7) "College personnel" refers to any person employed on a full-time or part-time basis, except those who are faculty members, by Bellevue Community College.

~~((6))~~ (8) "Complaint" means any expression of dissatisfaction with the performance of a student, ~~((college))~~ employee or procedure.

(9) "Controlled substance" is any drug or substance as defined in RCW 69.50 as now law or hereafter amended.

~~((7))~~ (10) "Disciplinary action" ~~((means and))~~ includes warning, reprimand, probation, expulsion, suspension~~((t))~~, or any ~~((lesser))~~ sanction of any student by the dean of student services, the college discipline committee, the president~~((t))~~, or the board of trustees for the violation of any of the provisions of the student code for which sanctions may be imposed.

(11) "Distance education" means various methods of instructional delivery that include, but are not limited to, online courses, telecourses and interactive video courses.

~~((8))~~ (12) "District" means Community College District VIII, state of Washington.

~~((9))~~ (13) "Faculty member" means any employee of Bellevue Community College who is employed on a full-time or part-time basis as a teacher, counselor, librarian~~((t))~~, or other position for which the training, experience~~((t))~~ and responsibilities are comparable as determined by the appointing authority, including administrative appointment.

(14) "Free speech area" means an area that shall be designated by the college president which can be reserved by student groups through the office of student programs.

~~((10))~~ (15) "President" means the duly appointed chief executive officer of Bellevue Community College, state of Washington, or in his/her absence, the acting chief executive officer.

~~((11))~~ (16) "Recognized student organization" shall mean and include any group or organization composed of students which is formally recognized by the associated students of Bellevue Community College.

~~((12))~~ (17) "Sponsored event or activity" shall mean any activity that is scheduled by the college and supervised and controlled by the college's faculty members, librarians, counselors, or other college personnel. Such "sponsorship" shall continue only as long as the event is supervised and controlled by the college faculty member, librarian, counselor or other college personnel. When the sponsored event or activity is of prolonged nature, and free time periods are permitted to the students participating in the event, any activity taking place during such a free time period outside of the supervision and control of the activity shall be deemed to a ~~((non-sponsored))~~ non-sponsored activity.

~~((13))~~ (18) "Student," unless otherwise qualified, means any person who is enrolled for classes or has been accepted for admission to the college.

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-040 Jurisdiction. (1) All rules herein adopted concerning student conduct and discipline shall apply to every student ~~((attending a community college within the district))~~ whenever said student is participating in a distance education class or event, or is attending a class, or is present ~~((upon or))~~ in any college facility, or whenever said student is engaged in or present at any college-related activity whether occurring on or off college facilities.

(2) Faculty members, other college employees, and members of the public who breach or aid or abet another in the breach of any provision of this chapter shall be subject to

(a) Possible prosecution under the state criminal law;

(b) Any other civil or criminal liability for which remedies are available to the public; or

(c) Appropriate disciplinary action pursuant to the state of Washington higher education personnel board or the district's policies and regulations.

(d) Restriction from entry to any college property or facilities, the violation of which could result in criminal trespass;

(3) The college may carry out any disciplinary proceedings prior to, simultaneously, or following civil or criminal proceedings in a court of law.

AMENDATORY SECTION (Amending WSR 02-10-069, filed 4/26/02)

WAC 132H-120-050 Student rights and freedoms.

The following enumerated rights and freedoms are guaranteed to each student within the limitations of statutory law and college policies that are deemed necessary to achieve the educational goals of the college:

(1) Academic freedom.

(a) Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public. Students and other members of the college community shall always be free to express their views or support causes by orderly means which do not disrupt the regular and essential operation of the college.

(b) Students shall have the right of assembly as defined in WAC 132H-120-030 upon college facilities that are generally available to the public: Provided, That such assembly shall:

(i) Be conducted in an orderly manner; and

(ii) Not unreasonably interfere with vehicular or pedestrian traffic; or

(iii) Not unreasonably interfere with classes, schedules, meetings, or ceremonies, or with the educational functions of the college;

(iv) Not unreasonably interfere with college functions; and

(v) Not cause damage or destruction to college property or private property on the college campus.

(vi) The president reserves the right to direct students assembling under this subsection to relocate to the free speech area designated in WAC 132H-120-030(14), to pre-

vent interference will college classes or other college activities.

(c) Students are free to pursue appropriate educational objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(d) Students shall be protected from academic evaluation which is arbitrary, prejudiced or capricious, but are responsible for meeting the standards of academic performance established by each of their instructors.

(e) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and sexual harassment.

(2) Due process.

(a) The right of students to be secure in their persons, quarters, papers and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this student code is entitled, upon request, to procedural due process as set forth in this chapter.

(3) Distribution and posting. Students may distribute or post printed or published material subject to official procedures printed and available in the ~~((dean of student service's office))~~ office of student programs. All free publications not in violation of state and/or federal laws such as books, magazines, newspapers, handbills, leaflets, or similar materials may be distributed on campus. The college may restrict the distribution of any publications where such distribution unreasonably interferes with college operations. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs. Any person desiring to distribute such publications shall first register with the ~~((director))~~ office of student programs so that reasonable areas and times can be assured and the activities of the institution will not be unduly interfered with. All handbills, leaflets, newspapers, and similarly related matter must bear identification as to the publishing agency and distributing organization or individual.

(4) Off campus speakers. Recognized student organizations shall have the right to invite outside speakers to speak on campus subject to the availability of campus facilities, funding, and compliance with the college procedures available in the campus operations office.

(5) Incidental sales. Students have the right to engage in incidental sales of personal property in a private transaction provided college facilities are not explicitly used for this purpose.

(6) Commercial activities. The use of college grounds or facilities for commercial or private gain purposes is prohibited except where commercial activity such as sale of books, instructional supplies, or food contribute to the operation of the instructional program or where limited sale is specifically authorized by the dean of student services for the benefit of the approved activity.

(7) Fund raising. Students have the right to engage in fund raising activities for nonprofit organizations as recognized by the Internal Revenue Service. All fund raising activities must be approved by the dean of student services.

(8) Sale of merchandise. All merchandise offered for commercial sale may be sold only through the college bookstore or college food services except when approved by the dean of student services.

AMENDATORY SECTION (Amending WSR 02-10-069, filed 4/26/02)

WAC 132H-120-200 Student responsibilities. Any student shall be subject to disciplinary action as provided for in this chapter, who either as a principal actor, aide(~~(#)~~), abettor or accomplice as defined in RCW 9A.08.020:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college(~~(#)~~);

(2) Engages in unlawful conduct;

~~((~~(#)~~))~~ (3) Violates any provisions of this chapter; or

~~((~~(#)~~))~~ (4) Commits any prohibited act, including but not limited to the following: ~~((of the following acts which are hereby prohibited:))~~

(a) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of liquor or alcoholic beverage except as a participant of legal age in a student program, banquet or educational program which has the special written authorization of the college president or his/her designee.

(b) Controlled substances. Using, possessing, selling or being under the influence of any narcotic drug or controlled substance as defined in RCW 69.50.101 as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.04.005 as now law or hereafter amended.

(c) Illegal entry. ~~((Entering))~~ Unauthorized entry into or onto any locked or otherwise closed college property or facility in any manner, at any time, without permission of the college employee or agent in charge thereof.

(d) Forgery or alteration of records. Forgery, as defined in RCW 9A.60.010 - 9A.60.020 as now law or hereafter amended or any district record of instrument or tendering any forged record of instrument to any employee or agent of the district acting in his/her official capacity as such.

(e) Illegal assembly. Participation in an assembly which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.

(f) Malicious mischief. Intentional or negligent damage to or destruction of any college facility or other public or private real or personal property.

(g) Failure to follow instructions. Failure to comply with directions of properly identified college officials acting in performance of their duties.

(h) Physical abuse. Physical abuse of any person or conduct which is intended unlawfully to threaten imminent

bodily harm or to endanger the health or safety of any person on college-owned or controlled property or at college-sponsored or supervised functions.

(i) Assault. Assault, reckless endangerment, intimidation or interference upon another person in the manner set forth in RCW 9A.36.010(~~(—[9A.36.])~~) through RCW 9A.36.050 or RCW 28B.10.570(~~(—[28B.10.])~~) through RCW 28B.10.572 as now or hereafter amended.

(j) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of others or which obstructs or disrupts teaching, research, or administrative functions.

(k) Weapons. Possession or use of firearms, explosives, dangerous chemicals or other dangerous weapons or instrumentalities on the college campus, except for authorized college purposes or for law enforcement officers, unless written approval has been obtained from the dean of student services or any other person designated by the president.

(l) Lewd conduct. Engaging in lewd, indecent(~~([f.])~~), or obscene behavior on college-owned or controlled property or at college-sponsored or supervised functions.

(m) False alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(n) Cheating and plagiarism. Engaging in cheating, stealing, plagiarizing, knowingly furnishing false information to the college, or submitting to a faculty member any work product that the student fraudulently represents as his or her own work for the purpose of fulfilling or partially fulfilling any assignment or task required as part of a program of instruction.

(o) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior knowingly offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(p) Theft or robbery. Theft or robbery from the district or from another as defined in RCW 9A.56.010(~~(—)~~) through RCW 9A.56.050 and RCW 9A.56.100 as now law or hereafter amended.

(q) Unauthorized use of property. Converting or using college equipment, supplies or other property without proper authority.

(r) Refusal to provide identification. Refusal to provide positive identification (e.g., valid driver's license or state identification card) in appropriate circumstances to any college employee in the lawful discharge of said employee's duties.

(s) Smoking. Smoking in any college facility or on campus grounds except where specifically posted as permitted, (~~(classroom or laboratory, the library, or in any college facility or office posted "no smoking")~~) or any other smoking not complying with chapter 70.160 RCW.

(t) False complaint. Filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(u) Improper use of computer, telephone or other electronic devices. Conduct that violates WAC 132H-120-210. Trespassing or gaining access, without authorization, to a

computer, system, network, or electronic data owned, used by, or affiliated with the college.

(v) Ethics violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking courses or is pursuing as an educational goal or major. These ethics codes must be distributed to students as part of an educational program, course, or sequence of courses and the student must be informed that a violation of such ethics may subject the student to disciplinary action by the college.

(w) Criminal law violation, illegal behavior, other unlawful violations. Students can be reported to proper authorities for acts which constitute violations to applicable local, state and federal laws. When the student's behavior is determined to threaten the health, safety and/or property of the college and its members, the college may immediately and summarily suspend the student and refer any such violation to the proper authorities for disposition.

AMENDATORY SECTION (Amending WSR 02-10-069, filed 4/26/02)

WAC 132H-120-220 Responsibility of college discipline committee. The dean of student services is the college administrator responsible for student discipline. All discipline procedures will be initiated by the dean or his/her designee. The dean(~~(, who)~~) shall have the authority to administer the disciplinary action prescribed in this chapter and to convene the college discipline committee. The composition of the college discipline committee shall be as follows: The committee shall be established each fall. It will be composed of the following persons:

(1) A faculty member appointed by the president of the college.

(2) A member of the faculty, appointed by the president of the Bellevue Community College Association of Higher Education.

(3) Two representatives selected by the student services cabinet.

(4) Three students appointed by the president of the associated students of Bellevue Community College.

None of the above-named persons shall sit in any case in which he/she has a conflict of interest, is a complainant or witness, has a direct or personal interest, or has acted previously in an advisory capacity. Decisions in this regard, including the selection of alternates, shall be made by the college discipline committee as a whole.

The college discipline committee chair will be elected by the members of the college discipline committee.

There shall be a list of alternates provided in the same manner and number in which membership was obtained. The quorum required for a hearing is the chair, one faculty member, one representative of the student services cabinet and one student.

AMENDATORY SECTION (Amending WSR 932-129-00847 [02-10-069], filed 5/19/93 [4/26/02])

WAC 132H-120-300 Discipline committee procedure. (1) The discipline committee shall conduct a hearing within twenty calendar days after disciplinary action has been referred to the committee.

(2) When a person is charged with an offense punishable by suspension, or dismissal of his or her relationship with the institution, and where the person

(a) Waives the opportunity for a brief adjudicative proceeding, or

(b) By his/her conduct in the judgment of the hearing officer makes it impossible to conduct a brief adjudicative proceeding, or

(c) Is dissatisfied with the results of the brief adjudicative proceeding; that person is entitled to an adjudicative proceeding according to the provisions of RCW 34.05.410 and the guidelines of this chapter. Where an adjudicative proceeding is neither required by law nor requested by the student or the college, the matter may be resolved informally. Brief adjudicative proceedings before the discipline committee shall be conducted in any manner which will bring about a prompt, fair resolution of the matter.

(3) Written notice of the time and place of this hearing before the college discipline committee, shall be given to the student by personal service or certified mail not less than ((twenty)) fifteen calendar days in advance of the hearing. The notice shall be issued by the dean of student services and shall contain:

(a) A statement of the time, place and nature of the disciplinary proceedings;

(b) A statement of the charges including reference to the particular sections of the student code involved; and

(c) To the extent known, a list of witnesses who will appear and a summary description of any documentary or other physical evidence that will be presented by the college at the hearing.

(4) The student shall be entitled to:

(a) Hear and examine the evidence against him or her and be informed of the identity of its source;

(b) Present evidence in his or her own behalf and to cross-examine witnesses testifying on behalf of the college as to factual matters.

(c) Take depositions upon oral examination or written interrogatories. Discovery shall be done according to the rules of civil procedure or by a less formal method where all parties agree.

(5) The student shall have all authority possessed by the college to obtain information relevant to the issues of the hearings, he/she specifically describes, in writing, and tenders to the dean of student services no later than three days prior to the hearings, or requests the presence of witnesses or the production of other relevant evidence ((relevant to the issues of the hearings)).

(6) The student shall have the right to dismiss a member of the college discipline committee on prejudicial grounds if notice is tendered in writing to the dean of student services at least three days prior to the scheduled hearing.

(7) The student may be represented by counsel of his or her choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney as his or her counsel, he or she must tender at least seven calendar days' notice thereof to the dean of student services.

(8) In all disciplinary proceedings the college may be represented by the dean of student services or his or her designee who shall present the college's case to the college discipline committee. The dean of student services may elect to have the college represented by an assistant attorney general.

(9) An adequate record of the hearing shall be maintained and shall include:

(a) All documents, motions, and intermediate rulings;

(b) Evidence received and considered;

(c) A statement of matters noticed; and

(d) Questions and offers of proof, objections and rulings thereon.

(10) The chair of the college discipline committee shall preside at the disciplinary hearing and shall be considered the presiding officer.

(11) The dean of student services shall designate a recorder to take notes during the hearing and to prepare a written summary of all evidence, facts and testimony presented to the college discipline committee during the course of the hearing.

(12) Hearings conducted by the college discipline committee generally will be held in closed session, provided that the accused student may request the hearing to be held in open session.

(13) If at any time during the conduct of a hearing visitors disrupt the proceedings, the chair of the committee may exclude such persons from the hearing room.

(14) Any student attending the college discipline committee hearing who continues to disrupt ((to)) the proceedings after the chair of the committee has asked him or her to cease or to leave the hearing room shall be subject to disciplinary action.

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

AMENDATORY SECTION (Amending WSR 92-19-047, filed 9/10/92)

WAC 132H-120-310 Decision by the college discipline committee. (1) Upon conclusion of the disciplinary hearing, the college discipline committee shall consider all the evidence therein presented and decide by majority vote whether to uphold the decision of the dean of student services or to recommend to the president any of the following actions:

(a) That the college terminate the proceedings and exonerate the student or students;

(b) That the college impose any of the disciplinary actions as provided in this chapter.

(2) Within seven calendar days, the student will be provided with a copy of the college discipline committee's findings of fact and conclusions regarding what occurred, whether the student violated any provision of the student ((code)) code and recommendation for the final disposition of the matter at issue. The committee shall also advise the stu-

dent of his/her rights to present, within twenty-one calendar days, a written statement to the president of the college appealing the recommendation of the college discipline committee.

WSR 03-14-018
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed June 19, 2003, 4:19 p.m.]

Date of Adoption: June 16, 2003.

Purpose: The amended rule deletes subsection (3) addressing liability insurance for adult family homes.

Citation of Existing Rules Affected by this Order: Amending WAC 388-76-655.

Statutory Authority for Adoption: RCW 70.128.040.

Adopted under notice filed as WSR 03-10-090 on May 6, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 16, 2003

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-15-065, filed 7/11/02, effective 8/11/02)

WAC 388-76-655 General management and administration. (1) The provider shall not admit or retain any resident whose needs the provider cannot meet.

(2) The provider shall ensure all of the following:

(a) That staff are competent and receive necessary training, including but not limited to any training required under chapter 388-112 WAC to perform assigned tasks;

(b) The adult family home is in compliance with the requirements of this chapter and other applicable state laws;

(c) The home employs sufficient staff to meet the needs of the residents; and

(d) That he/she is available to respond to resident needs and caregiver inquiries within a reasonable time frame. In the event a provider is unavailable (including but not limited to

being on vacation), a person must be designated to respond on behalf of the provider.

~~(3) ((The provider shall maintain liability insurance of at least one hundred thousand dollars per occurrence to cover:~~

~~(a) Damage or loss of the resident's property if due to negligence of the insured; and~~

~~(b) Injury or harm to the resident resulting from:~~

~~(i) The provision of services or failure to provide needed services; or~~

~~(ii) Incidents occurring in the adult family home or on the home's premises.~~

~~(4))~~ (4) The provider shall ensure that all caregivers are at least eighteen years of age or older.

~~((5))~~ (4) The provider shall ensure that the provider, entity representative, resident manager and all caregivers:

(a) Are able to communicate or make provisions for communicating with the resident in his or her primary language;

(b) Have a clear understanding of job responsibilities and knowledge of residents' negotiated care plans in order to be able to provide care specific to each resident's needs; and

(c) Not engage in the illegal use of drugs or the excessive use of alcohol when providing care to residents; and

(d) Possess a valid first-aid and CPR card prior to providing care for residents unless such care is directly supervised by a fully qualified caregiver who has a valid first-aid and CPR card.

~~((6))~~ (5) The provider shall ensure that:

(a) There is at least one caregiver present in the home whenever one or more residents are on the premises;

(b) The caregiver referred to in (a) of this subsection is capable of understanding and speaking English well enough to be able to respond appropriately to emergency situations; and

(c) At least one caregiver is accessible by phone or beeper for emergencies when there are no residents on the home's premises.

~~((7))~~ (6) An adult family home shall be exempt from subsection ~~((6))~~(5)(a) of this section if:

(a) The home provides care to residents whose primary disabilities are developmental disabilities as defined by WAC 388-76-590; and

(b) It is determined and documented in a resident's current negotiated care plan that the resident is capable and willing to be left alone unsupervised in the adult family home during normal awake hours. The maximum period of time a resident can be left alone must be documented in the negotiated care plan.

WSR 03-14-019
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed June 20, 2003, 10:09 a.m.]

Date of Adoption: June 12, 2003.

Purpose: To allow out of state real estate licensees working under a license recognition agreement to maintain

PERMANENT

their Washington transaction records with the out-of-state broker to whom they are licensed.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124B-150.

Statutory Authority for Adoption: RCW 18.85.040(1).

Adopted under notice filed as WSR 03-09-059 on April 14, 2003.

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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 20, 2003

Alan E. Rathbun
Assistant Director

AMENDATORY SECTION (Amending WSR 02-03-054, filed 1/10/02, effective 2/10/02)

WAC 308-124B-150 Office requirement for brokers actively licensed in another jurisdiction. The term "office" in RCW 18.85.180 for a broker actively licensed in another jurisdiction in which the broker's headquarter office is located shall mean the Washington location where trust account and transaction records are maintained. Such records are required to be maintained for three years. The trust account and transaction records shall be open and accessible to representatives of the department of licensing. The parties to the transaction shall have access to the transaction records prepared or retained for the requesting party.

A broker actively licensed in another jurisdiction seeking licensure in Washington, whose headquarter office is located in that other jurisdiction, shall notify the department of the location address where the records are maintained in the state of Washington and shall include this address with the headquarter's address on the license application.

The Washington license shall be posted at the location where the records are being maintained.

Within thirty days after mailing of the notice of audit, the broker shall come to the department's office, after making an appointment, in the geographic location (Seattle or Olympia) nearest to the location of the records to sign the audit report.

If a real estate licensee actively licensed in another jurisdiction, whose headquarter office is located in that other jurisdiction, has obtained a Washington real estate license through a license recognition agreement, that licensee may maintain required Washington real estate transaction records

in their out-of-state jurisdiction and with the out-of-state broker to whom they are licensed, providing it is allowed for in the license recognition agreement.

WSR 03-14-020

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed June 20, 2003, 10:11 a.m.]

Date of Adoption: June 12, 2003.

Purpose: Provide for mandatory evaluations on distance education courses and require that providers explain how they arrived at the number of hours requested for a course. Also amends rules for denial or withdrawal of course approval.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124H-029 and 308-124H-061(6).

Statutory Authority for Adoption: RCW 18.85.040(1).

Adopted under notice filed as WSR 03-09-058 on April 14, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 20, 2003

Alan E. Rathbun
Assistant Director

AMENDATORY SECTION (Amending WSR 03-02-001, filed 12/19/02, effective 1/19/03)

WAC 308-124H-029 Distance education delivery method approval required. Applicants are required to submit an application for each separate distance education delivery method for which they propose to offer approved courses for clock hours. When submitting a distance education delivery method application, the following minimum criteria must be provided by the applicant:

(1) Specify the course learning objectives for each learning unit and clearly demonstrate that the learning objectives cover the subject matter and how these relate to the practice of real estate. Objectives must be specific to ensure that all content is covered adequately to ensure mastery;

(2) Demonstrate how mastery of the material is provided by:

(a) Dividing the material into major learning units, each of which divides the material into modules of instruction;

(b) Specifying learning objectives for each learning unit or module of instruction. Learning objectives must be comprehensive enough to ensure that if all the objectives are met, the entire content of the course will be mastered;

(c) Specifying an objective, quantitative criterion for mastery used for each learning objective and provide a structured learning method designed to enable students to attain each objective;

(3) Demonstrate that the course includes the same or reasonably similar informational content as a course that would otherwise qualify for the requisite number of clock hours of classroom-based instruction and how the provider will know that the student completed the required number of clock hours;

(4) Describe consistent and regular interactive events appropriate to the delivery method. The interactive elements must be designed to promote student involvement in the learning process, and must directly support the student's achievement of the course learning objectives. The application must identify the interactive events included in the course and specify how the interactive events contribute to achievement of the stated learning objectives;

(5) Demonstrate how the course provides a mechanism of individual remediation to correct any deficiencies identified during the instruction and assessment process;

(6) Measure, at regular intervals, the student's progress toward completion of the mastery requirement for each learning unit or module. In the case of computer-based instruction, the course software must include automatic shutdown after a period of inactivity;

(7) Demonstrate that approved instructors are available to answer questions regarding course content at reasonable times and by reasonable means, including in-person contact, individual and conference telephone calls, e-mail and fax;

(8) Demonstrate how reasonable security will be provided to ensure that the student who receives credit for the course is the student who enrolled in and completed the course. Both the approved school and the student must certify in writing that the student has completed the course, and the required number of clock hours;

(9) Provide a complete description of any hardware, software, or other technology to be used by the provider and needed by the student to effectively engage in the delivery and completion of the course material and an assessment of the availability and adequacy of the equipment, software, or other technologies to the achievement of the course's instructional claims; ~~(and)~~

(10) Provide an orientation session with the instructor or an affiliated representative of an approved school. Mechanisms must be clearly in place which allow students an early orientation to discuss course specifics;

(11) Demonstrate how the provider determined the number of clock hours requested in the distance education delivery method approval application; and

(12) Provide with each distance education delivery method approval application a copy of a course evaluation form. The provider must provide each student with the man-

datory evaluation form and retain the completed form in the school records as required under WAC 308-124H-245(4).

AMENDATORY SECTION (Amending WSR 02-03-056, filed 1/10/02, effective 2/10/02)

WAC 308-124H-061 Grounds for denial or withdrawal of course approval. Course approval may be denied or withdrawn if the instructor or any owner, administrator or affiliated representative of a school, or a course provider or developer:

(1) Submits a false or incomplete course application or any other information required to be submitted to the department;

(2) Includes in its title the phrase "real estate fundamentals," "real estate brokerage management," "real estate law," "business management," and "real estate practice" if the course was not submitted for approval of clock hours pursuant to WAC 308-124H-012;

(3) If the title of the course misleads the public and/or licensees as to the subject matter of the course;

(4) If course materials are not updated within thirty days of the effective date of a change in the statute or rules;

(5) If course content or material changes are not submitted to the department for approval prior to the date of using the changed course content;

(6) Failed to meet the requirements under WAC 308-124H-025, 308-124H-026, and 308-124H-029;

(7) If a course or prescribed core curriculum was approved through the mistake or inadvertence of the director(;

~~(8) If course approval was granted through the mistake or inadvertence of the director).~~

WSR 03-14-034
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed June 23, 2003, 2:25 p.m.]

Date of Adoption: May 30, 2003.

Purpose: To revise the fee schedule of the radioactive materials program in order to cover increases in program costs.

Citation of Existing Rules Affected by this Order: Amending WAC 246-254-070, 246-254-080, 246-254-090, and 246-254-100.

Statutory Authority for Adoption: RCW 70.98.080.

Other Authority: RCW 43.70.250 and [43.70.]110.

Adopted under notice filed as WSR 03-08-035 on March 27, 2003.

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 4, 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 4, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-070 Fees for specialized radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following special categories shall forward annual fees to the department as follows:

(a) Five thousand (~~(three)~~) five hundred (~~(eighty)~~) fifty-five dollars for operation of a single nuclear pharmacy.

(b) Nine thousand (~~(one)~~) four hundred seventy-five dollars for operation of a single nuclear laundry.

(c) Nine thousand (~~(one)~~) four hundred seventy-five dollars for a license authorizing a single facility to use more than one curie of unsealed radioactive material in the manufacture and distribution of radioactive products or devices containing radioactive material.

(d) Three thousand (~~(two)~~) three hundred (~~(twenty)~~) twenty-five dollars for a license authorizing a single facility to use less than or equal to one curie of unsealed radioactive material or any quantity of previously sealed sources in the manufacture and distribution of products or devices containing radioactive material.

(e) Eight hundred (~~(thirty-five)~~) sixty dollars for a license authorizing the receipt and redistribution from a single facility of manufactured products or devices containing radioactive material.

(f) Six thousand (~~(one)~~) three hundred fifty-five dollars for a license authorizing decontamination services operating from a single facility.

(g) (~~(Two)~~) Three thousand (~~(nine hundred fifteen)~~) ten dollars for a license authorizing waste brokerage including the possession, temporary storage at a single facility, and over-packing only of radioactive waste.

(h) One thousand three hundred forty dollars for a license authorizing equipment servicing involving:

(i) Incidental use of calibration sources;

(ii) Maintenance of equipment containing radioactive material; or

(iii) Possession of sealed sources for purpose of sales demonstration only.

(i) Two thousand (~~(four)~~) five hundred (~~(thirty)~~) five dollars for a license authorizing health physics services, leak testing, or calibration services.

(j) One thousand five hundred (~~(twenty)~~) seventy dollars for a civil defense license.

(k) Four hundred (~~(sixty)~~) seventy-five dollars for a license authorizing possession of special nuclear material as pacemakers or depleted uranium as shielding.

(2) Persons licensed or authorized to possess and use radioactive material in the following broad scope categories shall forward annual fees to the department as follows:

(a) Eighteen thousand (~~(two)~~) eight hundred (~~(ten)~~) five dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than one curie.

(b) Eight thousand (~~(four)~~) six hundred (~~(fifteen)~~) ninety dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession of any single isotope greater than 0.1 curie but less than or equal to one curie.

(c) Six thousand (~~(seven)~~) nine hundred (~~(sixty-five)~~) eighty-five dollars for a license authorizing possession of atomic numbers three through eighty-three with maximum authorized possession less than or equal to 0.1 curie.

(3) Persons licensed or authorized to possess or use radioactive material which are not covered by any of the annual license fees described in WAC 246-254-070 through 246-254-100, shall pay fees as follows:

(a) An initial application fee of one thousand dollars;

(b) Billing at the rate of one hundred dollars for each hour of direct staff time associated with issuing and maintaining the license and for the inspection of the license; and

(c) Any fees for additional services as described in WAC 246-254-120.

(d) The initial application fee will be considered a credit against billings for direct staff charges but is otherwise non-refundable.

(4) Persons licensed or authorized to possess or use radioactive material in a facility for radioactive waste processing, including resource recovery, volume reduction, decontamination activities, or other waste treatment, but not permitting commercial on-site disposal, shall pay fees as follows:

(a) A nonrefundable initial application fee for a new license of sixteen thousand dollars which shall be credited to the applicant's quarterly billing described in (b) of this subsection; and

(b) Quarterly billings for actual direct and indirect costs incurred by the department including, but not limited to, license renewal, license amendments, compliance inspections, a resident inspector for time spent on the licensee's premises as deemed necessary by the department, laboratory and other support services, and travel costs associated with staff involved in the foregoing.

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-080 Fees for medical and veterinary radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following medical or veterinary categories shall forward annual fees to the department as follows:

(a) Four thousand (~~five~~) six hundred (~~fifty~~) ninety-five dollars for operation of a mobile nuclear medicine program from a single base of operation.

(b) Three thousand (~~three~~) four hundred (~~twenty~~) twenty-five dollars for a license authorizing groups II and III of WAC 246-235-120 for diagnostic nuclear medicine at a single facility.

(c) Two thousand (~~eight~~) nine hundred (~~seventy-five~~) sixty-five dollars for a license authorizing groups IV and V of WAC 246-235-120 for medical therapy at a single facility.

(d) Four thousand (~~five~~) seven hundred (~~seventy-five~~) twenty-five dollars for a license authorizing groups II or III and groups IV or V of WAC 246-235-120 for full diagnostic and therapy services at a single facility.

(e) Two thousand (~~four~~) five hundred (~~sixty~~) forty dollars for a license authorizing group VI of WAC 246-235-120 for brachytherapy at a single facility.

(f) One thousand five hundred (~~twenty~~) seventy dollars for a license authorizing brachytherapy or gamma stereotactic therapy or teletherapy at a single facility.

(g) Two thousand three hundred (~~fifteen~~) ninety dollars for a license authorizing medical or veterinary possession of greater than two hundred millicuries total possession of radioactive material at a single facility.

(h) One thousand (~~eight~~) nine hundred (~~forty~~) dollars for a license authorizing medical or veterinary possession of greater than thirty millicuries but less than or equal to two hundred millicuries total possession of radioactive material at a single facility.

(i) One thousand three hundred (~~fifty-five~~) ninety-five dollars for a license authorizing medical or veterinary possession of less than or equal to thirty millicuries total possession of radioactive material at a single facility.

(j) One thousand (~~one~~) two hundred (~~ninety~~) twenty-five dollars for a license authorizing group I as defined in WAC 246-235-120 or in vitro uses of radioactive material at a single facility.

(k) Seven hundred (~~forty-five~~) sixty-five dollars for a license authorizing medical or veterinary possession of a sealed source for diagnostic use at a single facility.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location or base of operation.

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-090 Fees for industrial radioactive material licenses. (1) Persons licensed or authorized to possess or use radioactive material in the following industrial categories shall forward annual fees to the department as follows:

(a) Five thousand (~~three~~) five hundred (~~sixty~~) thirty-five dollars for a license authorizing the use of radiographic exposure devices in one or more permanent radiographic vaults in a single facility.

(b) Seven thousand (~~one~~) four hundred (~~eighty~~) fifteen dollars for a license authorizing the use of radiographic exposure devices at temporary job sites but operating from a single storage facility.

(c) Three thousand (~~five~~) six hundred (~~twenty~~) thirty-five dollars for a license authorizing well-logging activities including the use of radioactive tracers operating from a single storage facility.

(d) Seven hundred (~~sixty~~) eighty-five dollars for a license authorizing possession of portable sealed sources including moisture/density gauges and excluding radiographic exposure devices operating from a single storage facility.

(e) Eight hundred (~~thirty-five~~) sixty dollars for a license authorizing possession of any nonportable sealed source, including special nuclear material and excluding radioactive material used in a gas chromatograph at a single facility.

(f) Five hundred (~~twenty-five~~) forty dollars for a license authorizing possession of gas chromatograph units containing radioactive material at a single facility.

(g) One thousand four hundred (~~fifty~~) ninety-five dollars for a license authorizing possession of any self-shielded or pool type irradiator with sealed source total quantity greater than one hundred curies at a single facility.

(h) Seven thousand (~~six~~) nine hundred (~~eighty~~) thirty dollars for a license authorizing possession of sealed sources for a walk-in type irradiator at a single facility.

(i) Six thousand (~~six~~) nine hundred (~~eighty-five~~) dollars for a license authorizing possession of greater than one gram of unsealed special nuclear material or greater than five hundred kilograms of source material at a single facility.

(j) Two thousand (~~one~~) two hundred (~~forty~~) ten dollars for a license authorizing possession of less than or equal to one gram of unsealed special nuclear material or five hundred kilograms of source material at a single facility.

(k) Three hundred (~~forty~~) fifty dollars for a license authorizing possession of static elimination devices not covered by a general license.

(2) Persons with licenses authorizing multiple locations of permanent storage shall increase the annual fee by fifty percent for each additional location.

(3) Depleted uranium registrants required to file Form RHF-20 shall forward an annual fee of (~~seventy~~) seventy-two dollars to the department.

AMENDATORY SECTION (Amending WSR 02-04-025, filed 1/24/02, effective 2/24/02)

WAC 246-254-100 Fees for laboratory radioactive material licenses. (1) Persons licensed or authorized to possess or use unsealed radioactive material in the following laboratory categories shall forward annual fees to the department as follows:

(a) Three thousand (~~six~~) seven hundred (~~sixty~~) eighty dollars for a license authorizing possession at a single facility of unsealed sources in amounts greater than:

(i) One millicurie of I-125 or I-131; or

(ii) One hundred millicuries of H-3 or C-14; or

(iii) Ten millicuries of any single isotope.

(b) One thousand eight hundred (~~fifteen~~) seventy dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

(i) Greater than 0.1 millicurie and less than or equal to one millicurie of I-125 or I-131; or

(ii) Greater than ten millicuries and less than or equal to one hundred millicuries of H-3 or C-14; or

(iii) Greater than one millicurie and less than or equal to ten millicuries of any single isotope.

(c) One thousand five hundred (~~((twenty))~~ seventy) dollars for a license authorizing possession at a single facility of unsealed sources in amounts:

(i) Greater than 0.01 millicurie and less than or equal to 0.1 millicurie of I-125 or I-131; or

(ii) Greater than one millicurie and less than or equal to ten millicuries of H-3 or C-14; or

(iii) Greater than 0.1 millicurie and less than or equal to one millicurie of any other single isotope.

(d) Five hundred (~~((twenty-five))~~ forty) dollars for a license authorizing possession at a single facility of unsealed or sealed sources in amounts:

(i) Less than or equal to 0.01 millicurie of I-125 or I-131; or

(ii) Less than or equal to one millicurie of H-3 or C-14; or

(iii) Less than or equal to 0.1 millicurie of any other single isotope.

(e) Seven hundred (~~((five))~~ twenty-five) dollars for a license authorizing possession at a single facility of large quantities of naturally occurring radioactive material in total concentration not exceeding 0.002 microcurie per gram.

(2) Persons with licenses authorizing multiple locations of use shall increase the annual fee by fifty percent for each additional location.

(3) Persons registered to perform in vitro testing pursuant to Form RHF-15 shall forward an annual fee of (~~((seventy))~~ seventy-two) dollars to the department.

WSR 03-14-035

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed June 23, 2003, 2:27 p.m.]

Date of Adoption: June 2, 2003.

Purpose: WAC 246-933-320 General requirements for all veterinary medical facilities, 246-933-501 Intent, 246-933-510 Definitions, 246-933-520 Registrations, 246-933-530 Purchase and use of drugs, and 246-933-550 Investigations.

The proposal establishes that the veterinary board adopt rules to regulate entities that provide limited veterinary services to the low-income members of our communities.

Citation of Existing Rules Affected by this Order: Amending WAC 246-933-320.

Statutory Authority for Adoption: RCW 18.92.030.

Other Authority: RCW 18.92.260.

Adopted under notice filed as WSR 03-06-100 on March 5, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 5, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 2, 2003

Michael L. Wedam, DVM

Chair, Veterinary Board

AUTHORIZING ANIMAL CARE AND CONTROL AGENCIES AND NONPROFIT HUMANE SOCIETIES TO PROVIDE LIMITED VETERINARY SERVICES

NEW SECTION

WAC 246-933-501 Intent. It is the intent of the legislature to allow qualified animal control agencies and humane societies to provide limited veterinary services to low-income members of our communities. It is not the intent of the legislature to allow these agencies to provide veterinary services to the public at large.

NEW SECTION

WAC 246-933-510 Definitions. As used in this chapter:

(1) "Entity" means animal care and control agencies as defined in RCW 16.52.011 and nonprofit humane societies, which have qualified under section 501 (c)(3) of the Internal Revenue Code.

(2) "Emergency care" as referred to in RCW 18.92.260 (1)(b) means an unexpected, serious occurrence or situation which urgently requires prompt action in order to prevent an animal's death or permanent injury, unless defined otherwise by local ordinance.

(3) "Low-income household" means a single person, family or unrelated persons living together whose adjusted family income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located (RCW 43.185A.010(5)).

NEW SECTION

WAC 246-933-520 Registration. A qualified animal care, control agency, or nonprofit humane society may obtain a registration credential. Refer to the requirements of chapter 246-12 WAC, Part 3.

NEW SECTION

WAC 246-933-530 Purchase and use of legend drugs and controlled substances. (1) For purposes of this section, "drugs" includes both legend drugs and controlled substances.

(a) "Legend drugs" means any drugs that are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

(b) "Controlled substances" means a drug, substance, or immediate precursor in Schedule I through V of Article II of chapter 69.50 RCW.

(2) A licensed veterinarian shall be responsible for the policies and procedures regarding the ordering, purchasing, safe storage, dispensing and administration of all drugs used at an entity registered under RCW 18.92.260 in connection with surgical sterilization or emergency care. Entities are responsible for the ordering, purchasing, and safe storage of all drugs.

(a) The veterinarian shall comply with the state board of pharmacy requirements for controlled substances in chapter 69.50 RCW, and legend drugs in chapter 69.41 RCW.

(b) All drugs shall be stored in accordance with WAC 246-933-320.

(c) All controlled substances shall be stored, maintained, administered, dispensed and prescribed in compliance with federal and Washington state laws.

(d) All legend drugs shall be dispensed in accordance with RCW 18.92.012, 18.92.013, and WAC 246-933-340(5).

(e) A record of all drugs administered and/or dispensed shall be kept in the individual animal's record.

NEW SECTION

WAC 246-933-550 Investigation. Treatment records to include drug use shall be made available to representatives of the veterinary board of governors and the board of pharmacy.

AMENDATORY SECTION (Amending Order 299B, filed 8/19/92, effective 9/19/92)

WAC 246-933-320 General requirements for all veterinary medical facilities. (1) **Construction and maintenance:** All facilities shall be so constructed and maintained as to provide comfort and safety for patients and clients. All areas of the premises shall be maintained in a clean and orderly condition, free of objectionable odors. All facilities shall comply with applicable state, county and municipal laws, ordinances and regulations.

(2) **Ventilation:** Adequate heating and cooling shall be provided for the comfort of the animals, and the facility shall have sufficient ventilation in all areas.

(3) **Lighting:** Proper lighting shall be provided in all rooms utilized for the practice of veterinary medicine. Outside lighting shall be adequate to identify the building and to assist the clients.

(4) **Water:** Potable water shall be provided.

(5) **Basic sanitation:** Any equipment, instruments or facilities used in the treatment of animals shall be clean and

sanitary at all times to protect against the spread of diseases, parasites and infection.

(6) **Waste disposal:** Covered waste containers, impermeable by water, shall be used for the removal and disposal of animal and food wastes, bedding, animal tissues, debris and other waste.

Disposal facilities shall be so operated as to minimize insect or other vermin infestation, and to prevent odor and disease hazards or other nuisance conditions.

The facility shall use refrigeration and employ a procedure for the prompt, sanitary and esthetic disposal of dead animals which complies with all applicable state, county and municipal laws, ordinances and regulations.

(7) Records:

(a) Every veterinarian shall keep daily written reports of the animals he or she treats. Separate records for companion animals shall be kept for each animal. The medical record for a litter may be recorded either on the dam's record or on a litter record until the individual animals are permanently placed or reach the age of three months. Records for food and fibre producing animals and animals kept in herds or flocks, etc., may be maintained on a group or client basis. ~~((These))~~ All records shall be legible, readily retrievable and shall be kept for a period of three years following the last treatment or examination. ((They)) The author of all medical record entries must be identified by code or employee number, or initials. The records shall include, but not be limited to, the following:

(i) Name, address and telephone number of the owner.

(ii) Name, number or other identification of the animal or group.

(iii) Species, breed, age, sex, weight and color of the animal.

(iv) Immunization record.

(v) Beginning and ending dates of custody of the animal.

(vi) Sufficient information in the history and examination portions of the record to justify the tentative diagnosis and to warrant the treatment. This would include, but not be limited to:

(A) A short history of the animal's condition as it pertains to its medical status.

~~((vii))~~ (B) Physical examination findings and any laboratory ((data)) or other diagnostic tests performed and/or recommended.

~~((viii))~~ (vii) Provisional or final diagnosis.

~~((ix))~~ (viii) Treatment ((and medication administered, prescribed or dispensed.

~~(x) Surgery and anesthesia-~~

~~(xi) Progress of the case))~~ administered and/or recommended.

(ix) Dosage and route of medications administered, prescribed or dispensed.

(x) Anesthesia dosage and route of administration.

(xi) Description of surgery performed.

(xii) Progress of the case.

(xiii) If applicable, documentation of the low-income status for persons that seek the limited veterinary services provided by qualified animal care and control agencies and humane societies.

PERMANENT

(b) Veterinary medical records and radiographs are the property of the veterinarian or the veterinary facility ((which)) that originally ordered their preparation. When requested by the client, copies of records will be made available as promptly as required under the circumstances, but no later than fifteen working days upon the client's request. The veterinarian may charge a reasonable copying fee, not to exceed the actual cost for providing the veterinary care information. A radiograph shall be released upon the request of another veterinarian who has the authorization of the owner of the animal to which it pertains. Such radiograph shall be returned to the originating veterinarian or veterinary facility within fifteen working days of receipt of a written request.

(8) **Storage:** All supplies, including food and bedding, shall be stored in facilities which adequately protect such supplies against infestation, contamination or deterioration. Refrigeration shall be provided for all supplies that are of a perishable nature, including foods, drugs and biologicals.

(9) **Biologicals and drugs:** Biologicals and other drugs shall be stored in such a manner as to prevent contamination and deterioration in accordance with the packaging and storage requirements of the current editions of the *U.S. Pharmacopeia*, 12601 Twinbrook Parkway, Rockville, Maryland 20852, and the *National Formulary*, Mack Publishing Company, 20th and Northampton Streets, Easton, Pennsylvania 18042 and/or manufacturers' recommendation.

All controlled substances shall be maintained in a locked cabinet or other suitable secure container in accordance with federal and Washington state laws.

Controlled substance records shall be readily retrievable, in accordance with federal and Washington state laws.

WSR 03-14-036
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed June 23, 2003, 2:30 p.m.]

Date of Adoption: June 13, 2003.

Purpose: The changes adjust the maximum fee that medical providers may charge for searching and duplicating medical records. The adjustment is based on the change in consumer price index for all consumers for the Seattle/Tacoma area. The proposed changes also address compliance with other federal and state laws.

Citation of Existing Rules Affected by this Order: Amending WAC 246-08-400.

Statutory Authority for Adoption: RCW 70.02.010(12).

Other Authority: RCW 43-70-040 [43.70.040] and 70.02.900.

Adopted under notice filed as WSR 03-10-098 on May 7, 2003.

Changes Other than Editing from Proposed to Adopted Version: We added language directly from RCW 70.02.900 to address the issue of compliance with other federal and state laws. The addition of this language does not change the substance or effect of the rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 23, 2003

M. C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 01-16-009, filed 7/19/01, effective 8/19/01).

WAC 246-08-400 How much can a medical provider charge for searching and duplicating medical records? 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 ((~~eighty-three~~)) eighty-eight cents per page for the first thirty pages;

(b) No more than ((~~sixty-three~~)) sixty-seven cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge a ((~~nineteen~~)) twenty 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, ((~~2004~~)) 2003, through June 30, ((~~2003~~)) 2005.

(4) This section does not restrict a health care provider, a third-party payor, or an insurer regulated under Title 48 RCW from complying with obligations imposed by federal or state health care payment programs or federal or state law.

WSR 03-14-037
PERMANENT RULES
DEPARTMENT OF HEALTH
 [Filed June 23, 2003, 2:32 p.m.]

Date of Adoption: June 26 [23], 2003.

Purpose: The proposed rule increases fees for shellfish export certificates within the 3.29% fiscal growth factor for fiscal year 2003 in order to cover inflationary increases in program costs.

Citation of Existing Rules Affected by this Order: Amending WAC 246-282-990.

Statutory Authority for Adoption: RCW 43.70.250.

Other Authority: RCW 34.70.250 [43.70.250].
 Adopted under notice filed as WSR 03-10-043 on May 1, 2003.

Changes Other than Editing from Proposed to Adopted Version: Increases fee for export certificates within the fiscal growth factor of 3.29% from \$10.00 to \$10.30.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 23, 2003
 Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 02-15-094, filed 7/16/02, effective 8/16/02)

WAC 246-282-990 Fees. (1) Annual shellfish operation license fees are:

Type of Operation	Annual Fee
Harvester	\$250.
Shellstock Shipper	
0 - 49 Acres	\$282.
50 or greater Acres	\$452.
Scallop Shellstock Shipper	\$282
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$514.
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$622.
Plants with floor space > 5000 sq. ft.	\$1,147.

(2) The fee for each export certificate is ~~\$(10)~~10.30.

(3) Annual PSP testing fees for companies harvesting intertidally (between the extremes of high and low tide):

Fee Category	Type of Operation	Number of Harvest Sites	Fee
	Harvester	≤ 2	\$173
	Harvester	3 or more	\$259
	Shellstock Shipper	≤ 2	\$195
	0 - 49 acres		

Fee Category	Type of Operation	Number of Harvest Sites	Fee
	Shellstock Shipper	3 or more	\$292
	0 - 49 acres		
	Shellstock Shipper	N/A	\$468
	50 or greater acres		
	Shucker-Packer	≤ 2	\$354
	(plants < 2000 ft ²)		
	Shucker-Packer	3 or more	\$533
	(plants < 2000 ft ²)		
	Shucker-Packer	≤ 2	\$429
	(plants 2000-5000 ft ²)		
	Shucker-Packer	3 or more	\$644
	(plants 2000-5000 ft ²)		
	Shucker-Packer	N/A	\$1,189
	(plants > 5000 ft ²)		

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

(i) At the time of first licensure; or

(ii) January 1 of each year for companies licensed as harvesters; or

(iii) July 1 of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(4) Annual PSP testing fees for companies harvesting subtidal geoduck (below extreme low tide):

Harvester	Fee
Department of natural resources (leased tracts harvested by nontribal licensees)	\$17,178
Jamestown S'Klallam Tribe	\$3,135
Lower Elwah Klallam Tribe	\$3,423
Nisqually Indian Tribe	\$4,316
Port Gamble S'Klallam Tribe	\$5,312
Puyallup Tribe of Indians	\$3,862
Skagit System Cooperative	\$555
Skokomish Indian Tribe	\$2,490
Squaxin Island Tribe	\$5,153
Suquamish Tribe	\$11,595
Tulalip Tribe	\$981

(5) PSP fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(6) Refunds for PSP fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

PERMANENT

WSR 03-14-038
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed June 23, 2003, 4:00 p.m., effective August 1, 2003]

Date of Adoption: June 20, 2003.

Purpose: To add a closing date to WAC 388-513-1365 now that new WAC 388-513-1364 became effective April 1, 2003.

WAC 388-513-1365 and 388-561-0100 were both proposed under WSR 03-09-117. Upon adopting the permanent rules filed as WSR 03-13-113 on June 17, 2003, WAC 388-513-1365 was inadvertently left out.

Citation of Existing Rules Affected by this Order: Amending WAC 388-513-1365.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.575.

Adopted under notice filed as WSR 03-09-117 on April 22, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: August 1, 2003.

June 20, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-02-076, filed 12/29/00, effective 1/29/01)

WAC 388-513-1365 Evaluating the transfer of an asset made on or after March 1, 1997 and before April 1, 2003 for long-term care (LTC) services. This section describes how the department evaluates the transfer of an asset made on or after March 1, 1997 and before April 1, 2003, by a client who is applying or approved for LTC services. The department must consider whether a transfer made within a specified time before the month of application requires a penalty period in which the client is not eligible for these services. Refer to WAC 388-513-1366 for rules used to evaluate the transfer of an asset made before March 1, 1997. Refer to WAC 388-513-1364 for rules used to evaluate the transfer of an asset made on or after March 31, 2003.

(1) The department disregards the following transfers by the client, if they meet the conditions described:

(a) Gifts or donations totaling one thousand dollars or less in any month;

(b) The transfer of an excluded resource described in WAC 388-513-1360 with the exception of the client's home, unless the transfer meets the conditions described in subsection (1)(d);

(c) The transfer of an asset for less than fair market value (FMV), if the client can provide evidence to the department that satisfies one of the following:

(i) An intent to transfer the asset at FMV or other adequate compensation;

(ii) The transfer is not made to qualify for LTC services;

(iii) The client is given back ownership of the asset;

(iv) The denial of eligibility would result in an undue hardship.

(d) The transfer of ownership of the client's home, if it is transferred to the client's:

(i) Spouse; or

(ii) Child, who:

(A) Meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c); or

(B) Is less than twenty-one years old; or

(iii) A son or daughter, who:

(A) Lived in the home for at least two years immediately before the client's current period of institutional status; and

(B) Provided care that enabled the client to remain in the home; or

(iv) A brother or sister, who has:

(A) Equity in the home, and

(B) Lived in the home for at least one year immediately before the client's current period of institutional status.

(e) The transfer of an asset other than the home, if the transfer meets the conditions described in subsection (4), and the asset is transferred:

(i) To the client's spouse or to another person for the sole benefit of the spouse;

(ii) From the client's spouse to another person for the sole benefit of the spouse;

(iii) To the client's child who meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c) or to a trust established for the sole benefit of this child; or

(iv) To a trust established for the sole benefit of a person who is sixty-four years old or younger and meets the disability criteria described in WAC 388-511-1105 (1)(b) or (c).

(f) The transfer of an asset to a member of the client's family in exchange for care the family member provided the client before the current period of institutional status, if a written agreement that describes the terms of the exchange:

(i) Was established at the time the care began;

(ii) Defines a reasonable FMV for the care provided that reflects a time frame based on the actuarial life expectancy of the client who transfers the asset; and

(iii) States that the transferred asset is considered payment for the care provided.

(2) When the fair market value of the care described in subsection (1)(f) is less than the value of the transferred asset, the department considers the difference the transfer of an asset without adequate consideration.

(3) The department considers the transfer of an asset in exchange for care given by a family member without a writ-

ten agreement as described under subsection (1)(f) as the transfer of an asset without adequate consideration.

(4) The transfer of an asset or the establishment of a trust is considered to be for the sole benefit of a person described in subsection (1)(e), if the transfer or trust:

(a) Is established by a legal document that makes the transfer irrevocable; and

(b) Provides for spending all funds involved for the benefit of the person for whom the transfer is made within a time frame based on the actuarial life expectancy of that person.

(5) When evaluating the effect of the transfer of an asset on a client's eligibility for LTC services received on or after October 1, 1993, the department counts the number of months before the month of application to establish what is referred to as the "look-back" period. The following number of months apply as described:

(a) Thirty-six months, if all or part of the assets were transferred on or after August 11, 1993; and

(b) Sixty months, if all or part of the assets were transferred into a trust as described in WAC ((388-505-0595)) 388-561-0100.

(6) If a client or the client's spouse transfers an asset within the look-back period without receiving adequate compensation, the result is a penalty period in which the client is not eligible for LTC services. If a client or the client's spouse transfers an asset on or after March 1, 1997 and before April 1, 2003, the department must establish a penalty period as follows:

(a) If a single or multiple transfers are made within a single month, then the penalty period:

(i) Begins on the first day of the month in which the transfer is made; and

(ii) Ends on the last day of the number of whole months found by dividing the total uncompensated value of the assets by the statewide average monthly private cost for nursing facilities at the time of application.

(b) If multiple transfers are made during multiple months, then the transfers are treated as separate events and multiple penalty periods are established that:

(i) Begin on the latter of:

(A) The first day of the month in which the transfer is made; or

(B) The first day after any previous penalty period has ended; and

(ii) End on the last day of the whole number of months as described in subsection (6)(a)(ii).

(7) If an asset is sold, transferred, or exchanged, the portion of the proceeds:

(a) That is used within the same month to acquire an excluded resource described in WAC 388-513-1360 does not affect the client's eligibility;

(b) That remains after an acquisition described in subsection (7)(a) becomes an available resource as of the first day of the following month.

(8) If the transfer of an asset to the client's spouse includes the right to receive a stream of income not generated by a transferred resource, the department must apply rules described in WAC 388-513-1330 (6) through (8).

(9) If the transfer of an asset for which adequate compensation is not received is made to a person other than the cli-

ent's spouse and includes the right to receive a stream not generated by a transferred resource, the length of the penalty period is determined and applied in the following way:

(a) The total amount of income that reflects a time frame based on the actuarial life expectancy of the client who transfers the income is added together;

(b) The amount described in (9)(a) is divided by the statewide average monthly private cost for nursing facilities at the time of application; and

(c) A penalty period equal to the number of whole months found by following subsections (9)(a) and (b) is applied that begins on the latter of:

(i) The first day of the month in which the client transfers the income; or

(ii) The first day of the month after any previous penalty period has ended.

(10) A penalty period for the transfer of an asset that is applied to one spouse is not applied to the other spouse, unless:

(a) Both spouses are receiving LTC services; and

(b) A division of the penalty period between the spouses is requested.

(11) If a client or the client's spouse disagrees with the determination or application of a penalty period, that person may request a hearing as described in chapter 388-02 WAC.

WSR 03-14-042

PERMANENT RULES

BOARD OF

PILOTAGE COMMISSIONERS

[Filed June 24, 2003, 9:49 a.m., effective August 1, 2003]

Date of Adoption: June 12, 2003.

Purpose: To establish a Grays Harbor pilotage district annual tariff.

Citation of Existing Rules Affected by this Order: Amending WAC 363-116-185.

Statutory Authority for Adoption: RCW 88.16.035.

Adopted under notice filed as WSR 03-09-135 on April 23, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: All

requirements necessary to amend the existing Grays Harbor pilotage district tariff as set forth in chapter 53.08 RCW have been met.

Effective Date of Rule: August 1, 2003.
 June 23, 2003
 Peggy Larson
 Administrator

AMENDATORY SECTION (Amending WSR 02-13-076, filed 6/17/02, effective 6/17/02)

WAC 363-116-185 Tariffs, and pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours August 1, 2003, through 2400 hours July 31, (~~2003~~) 2004.

CLASSIFICATION OF PILOTAGE SERVICE RATE

Piloting of vessels in the inland waters and tributaries of Grays Harbor:

Each vessel shall be charged according to its draft and tonnage. The draft charges shall be \$80.99 per meter (or \$24.64 per foot) and the tonnage charge shall be \$0.2583 per net registered ton. The minimum net registered tonnage charge is \$903.79. The charge for an extra vessel (in case of tow) is \$516.48.

Boarding fee:

Per each boarding/deboarding from a boat or helicopter \$389.67

Harbor shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage \$647.88
 Delays per hour \$154.49
 Cancellation charge (pilot only) \$258.22
 Cancellation charge (boat or helicopter only) \$774.69

Pension charge:

Charge per pilotage assignment, including cancellations ~~\$(140.00)~~
 172.00

Travel allowance:

Transportation fee per assignment \$55.00

Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$903.82 for each day or fraction thereof, and the travel expense incurred \$903.82

Bridge transit:

Charge for each bridge transited \$283.61
 Additional surcharge for each bridge transited for vessels in excess of 27.5 meters in beam \$785.22

Miscellaneous:

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.

**WSR 03-14-043
 PERMANENT RULES
 DEPARTMENT OF
 LABOR AND INDUSTRIES**

[Filed June 24, 2003, 10:31 a.m., effective August 1, 2003.]

Date of Adoption: June 24, 2003.

Purpose: Medical aid updates regarding rate setting for most professional health care services for injured workers. These updates also impact rates for health care services provided to crime victims.

Citation of Existing Rules Affected by this Order: Amending WAC 296-20-135, 296-23-220, and 296-23-230.

Statutory Authority for Adoption: RCW 51.04.020(1) and 51.04.030.

Adopted under notice filed as WSR 03-09-107 on April 22, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 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 3, Repealed 0.

Effective Date of Rule: August 1, 2003.

June 24, 2003
 Paul Trause
 Director

AMENDATORY SECTION (Amending WSR 02-10-129, filed 5/1/02, effective 7/1/02)

WAC 296-23-220 Physical therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

PERMANENT

Refer to WAC 296-20-132 and 296-20-135 regarding the use of conversion factors.

All supplies and materials must be billed using HCPCS Level II codes. Refer to chapter 296-21 WAC for additional information. HCPCS codes are listed in the fee schedules.

Refer to chapter 296-20 WAC (WAC 296-20-125) and to the department's billing instructions for additional information.

Physical therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed physical therapist or a physical therapist assistant serving under the direction of a licensed physical therapist. Doctors rendering physical therapy should refer to WAC 296-21-290.

The department or self-insurer will review the quality and medical necessity of physical therapy services provided to workers. Practitioners should refer to WAC 296-20-01002 for the department's rules regarding medical necessity and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department or self-insurer will pay for a maximum of one physical therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$102.65)~~) \$103.65 whichever is less. These limits will not apply to physical therapy that is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for physical therapists who render care to workers.

Use of diapulse or similar machines on workers is not authorized. See WAC 296-20-03002 for further information.

A physical therapy progress report must be submitted to the attending doctor and the department or the self-insurer following twelve treatment visits or one month, whichever occurs first. Physical therapy treatment beyond initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

Physical therapy services rendered in the home and/or places other than the practitioner's usual and customary office, clinic, or business facilities will be allowed only upon prior authorization by the department or self-insurer.

No inpatient physical therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Biofeedback treatment may be rendered on doctor's orders only. The extent of biofeedback treatment is limited to those procedures allowed within the scope of practice of a licensed physical therapist. See chapter 296-21 WAC for

rules pertaining to conditions authorized and report requirements.

Billing codes and reimbursement levels are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 02-10-129, filed 5/1/02, effective 7/1/02)

WAC 296-23-230 Occupational therapy rules. Practitioners should refer to WAC 296-20-010 through 296-20-125 for general information and rules pertaining to the care of workers.

Refer to WAC 296-20-132 and 296-20-135 for information regarding the conversion factors.

All supplies and materials must be billed using HCPCS Level II codes, refer to the department's billing instructions for additional information.

Occupational therapy treatment will be reimbursed only when ordered by the worker's attending doctor and rendered by a licensed occupational therapist or an occupational therapist assistant serving under the direction of a licensed occupational therapist. Vocational counselors assigned to injured workers by the department or self-insurer may request an occupational therapy evaluation. However, occupational therapy treatment must be ordered by the worker's attending doctor.

An occupational therapy progress report must be submitted to the attending doctor and the department or self-insurer following twelve treatment visits or one month, whichever occurs first. Occupational therapy treatment beyond the initial twelve treatments will be authorized only upon substantiation of improvement in the worker's condition. An outline of the proposed treatment program, the expected restoration goals, and the expected length of treatment will be required.

The department or self-insurer will review the quality and medical necessity of occupational therapy services. Practitioners should refer to WAC 296-20-01002 for the department's definition of medically necessary and to WAC 296-20-024 for the department's rules regarding utilization review and quality assurance.

The department will pay for a maximum of one occupational therapy visit per day. When multiple treatments (different billing codes) are performed on one day, the department or self-insurer will pay either the sum of the individual fee maximums, the provider's usual and customary charge, or (~~(\$102.65)~~) \$103.65 whichever is less. These limits will not apply to occupational therapy which is rendered as part of a physical capacities evaluation, work hardening program, or pain management program, provided a qualified representative of the department or self-insurer has authorized the service.

The department will publish specific billing instructions, utilization review guidelines, and reporting requirements for occupational therapists who render care to workers.

Occupational therapy services rendered in the worker's home and/or places other than the practitioner's usual and customary office, clinic, or business facility will be allowed only upon prior authorization by the department or self-insurer.

No inpatient occupational therapy treatment will be allowed when such treatment constitutes the only or major treatment received by the worker. See WAC 296-20-030 for further information.

The department may discount maximum fees for treatment performed on a group basis in cases where the treatment provided consists of a nonindividualized course of therapy (e.g., pool therapy; group aerobics; and back classes).

Billing codes, reimbursement levels, and supporting policies for occupational therapy services are listed in the fee schedules.

AMENDATORY SECTION (Amending WSR 02-10-129, filed 5/1/02, effective 7/1/02)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services have a conversion factor of (~~(\$50.54)~~) \$50.58. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of (~~(\$2.78)~~) \$2.80 per minute, which is equivalent to (~~(\$41.70)~~) \$42.00 per 15 minutes. The base units and payment policies can be found in the fee schedules.

WSR 03-14-044
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed June 24, 2003, 10:47 a.m.]

Date of Adoption: June 24, 2003.

Purpose: To repeal WAC 16-219-016 concerning the use of Mevinphos (Phosdrin) in Washington. Federal registration and use of this product has been cancelled, and therefore the WSDA permanent rules is no longer required.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-219-016.

Statutory Authority for Adoption: Chapters 15.58, 17.21, and 34.05 RCW.

Adopted under notice filed as WSR 03-09-088 on April 17, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 1; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

June 24, 2003

Valoria H. Loveland

Director

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-219-016

Restricted use pesticides—
 Mevinphos (Phosdrin).

WSR 03-14-046
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed June 24, 2003, 2:43 p.m.]

Date of Adoption: June 24, 2003.

Purpose: Chapter 308-20 WAC, Cosmetologist, barbers, manicurists, and estheticians, to amend, repeal or retain current rules, which may no longer be needed or need further written clarification as per the governor's directive on state rules review.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-20-180 and 308-20-530; amending WAC 308-20-010, 308-20-040, 308-20-090, 308-20-105, 308-20-107, 308-20-110, 308-20-120, 308-20-210, 308-20-520, 308-20-550, 308-20-560, 308-20-570, 308-20-600, and 308-20-710; and new sections WAC 308-20-091 and 308-20-575.

Statutory Authority for Adoption: RCW 18.16.030 and 43.24.023.

Adopted under notice filed as WSR 03-10-085 on May 6, 2003.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-20-080 has been withdrawn from this filing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 8, 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 2, Amended 14, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 14, Repealed 2.

PERMANENT

Effective Date of Rule: Thirty-one days after filing.

June 24, 2003

Trudie Touchette

Acting Administrator

AMENDATORY SECTION (Amending WSR 02-04-012, filed 1/24/02, effective 6/30/02)

WAC 308-20-010 Definitions. (1) "Chemical compounds formulated for professional use only" are those compounds containing hazardous chemicals in a form not generally sold to the public; including but not limited to, bulk concentrates of permanent wave solution, neutralizers, chemical relaxers, oxidizing agents, flammable substances, facial creams, or approved chemical compounds. These compounds must be designated for use on the hair, face, neck, skin, or scalp.

(2) "Monthly student ~~((record))~~ report" ~~((is a))~~ are forms provided by the school, approved by the department, pre-printed with the school name ~~((that shows))~~. The ((actual)) report must include the daily activities of the student in each subject, (i.e., number of shampoos, haircuts, perms, colors, etc.) within each course (i.e., barbering, manicuring, cosmetology, esthetics, or instructor-trainee).

(3) "Completed and graduated" is the completion of the school curriculum and the state approved minimum hourly course of training ((and passage of a state approved performance and written examination)).

AMENDATORY SECTION (Amending WSR 02-04-012, filed 1/24/02, effective 6/30/02)

WAC 308-20-040 Records. (1) ~~((The department may license or renew a license of a school that meets the requirements of RCW 18.16.140 (Application for school license) and submits the following:~~

~~((a) A copy of the school's curriculum(s) satisfying the minimum instruction guidelines in WAC 308-20-080; and~~

~~((b) The estimated annual gross tuition to be collected by the school.~~

~~((2))~~ Schools shall collect and record monthly and final student ~~((records))~~ reports. These ~~((records))~~ reports as described in WAC 308-20-010 shall contain the cumulative number of hours the student has attended class and the number of times the student performs ~~((a skill))~~ an activity as described in WAC 308-20-080. The hours attended shall not be recorded in less than one-quarter hour increments.

~~((3))~~ (2) Monthly and final student ~~((records))~~ reports shall be signed by either the school owner, school manager or a person the school has authorized to sign the student ~~((records))~~ reports. ~~((The school shall notify the department of the persons authorized to sign the student records.~~

~~((4))~~ (3) The school shall certify to the department that the student has satisfied the minimum instruction guidelines described in WAC 308-20-080 on the student's ~~((Washington state department of licensing))~~ license examination application. Certification shall be by a person authorized to sign student ~~((records))~~ reports according to subsection ~~((3))~~ (2) of this section.

~~((5))~~ (4) Schools shall maintain student records for at least ~~((four))~~ three years. The student records shall include documentation of student training ~~((, and examination results))~~.

(5) The school shall notify the department of the persons authorized to sign student records.

(6) Weekly reports provided by salon/shops verifying hours student earns in salon training must be included in student's records and recorded on student's monthly and final reports.

AMENDATORY SECTION (Amending WSR 02-04-012, filed 1/24/02, effective 6/30/02)

WAC 308-20-090 Student credit for training in a licensed school. ~~((1) Only those hours of instruction a student is given under the direction of a licensed instructor of the licensed school in which the student is enrolled and in the courses listed in WAC 308-20-080 shall be credited toward completion of the course of study required in RCW 18.16.100.~~

~~((2) When all of a school's requirements have been met by a student and within thirty days of a student leaving a school, the school shall provide to the student a copy of the student's final record.~~

~~((3) Students may transfer between schools and may receive credit toward completion of the curriculum in the new school. In order to receive a transfer student, the new school shall do the following:~~

~~((a) Evaluate the final student record provided by the student and certified by the previous school and compare the record from the previous school with the new school's requirements;~~

~~((b) Accept the final student record from the previous school, in part or in total as if it was instruction meeting the new school's curriculum and prepare a monthly report that documents the amount of instruction being accepted by the new school; or~~

~~((c) Reject the final student record from the previous school.~~

~~((4) Both the transferring and receiving schools shall maintain student records including the transfer record as required in WAC 308-20-040(5).))~~ (1) A maximum of twenty students per instructor is required within a licensed school.

(2) Only those hours of instruction a student is given under the direction of a licensed instructor of the licensed school in which the student is enrolled and in the courses listed in WAC 308-20-080 and 308-30-105 or hours earned under WAC 308-20-091 shall be credited toward completion of the course of study required in RCW 18.16.100.

(3) When all of a school's requirements have been met by a student and within thirty days of a student leaving a school, the school shall provide to the student a copy of the student's final report.

(4) Students may transfer between schools and may receive credit toward completion of the curriculum in the new school. In order to receive a transfer student, the new school shall do the following:

(a) Evaluate the final student report provided by the student and certified by the previous school and compare the

PERMANENT

report from the previous school with the new school's requirements;

(b) Accept the final student report from the previous school, in part or in total as if it was instruction meeting the new school's curriculum and prepare a monthly report that documents the amount of instruction being accepted by the new school; or

(c) Reject the final student report from the previous school.

(5) Both the transferring and receiving schools shall maintain student records including the transfer record as required in WAC 308-20-040(4).

(6) Licensed instructors must be physically present where the students are training.

NEW SECTION

WAC 308-20-091 Student credit for training in a licensed salon/shop. (1) A maximum ten percent of the total curriculum hours required may be earned in a salon/shop under a contract approved by the department signed by the student, the school owner, and the salon/shop manager.

(2) Only those hours of instruction a student is given under the direction of a licensed operator in the contracted salon/shop and in the subjects agreed to in the contract shall be credited towards completion of the course of study required in RCW 18.16.100.

(3) Students will not receive any wages or commission for hours of credit earned in a salon/shop.

(4) Salon/shops shall provide weekly reports to the schools with hours the student earned in each area of agreed training.

(5) Licensed operators must be physically present where students are training.

AMENDATORY SECTION (Amending WSR 02-04-012, filed 1/24/02, effective 6/30/02)

WAC 308-20-105 ((Curriculum)) Minimum instruction requirements for instructor-trainees. The minimum instruction ((guidelines)) requirements for ((training required for)) a student to be eligible to take the examination to be licensed as an instructor shall include, but not be limited to:

(1) Preparation for classroom activities including, but not limited to:

- (a) Choice of teaching methods;
- (b) Classroom setup;
- (c) Topic/subject matter;
- (d) Student assignments;
- (e) Materials and supplies; and
- (f) Recordkeeping.

(2) Presentation of information including, but not limited to:

- (a) Lectures (oral and written);
- (b) Demonstrations;
- (c) Questions and answers;
- (d) Project methods; and
- (e) Discussions.

(3) Application of practice including, but not limited to:

- (a) Clinic supervision;

(b) Classroom management; and

(c) Client relations.

(4) Evaluation by the instructor-trainee of the student's understanding and performance including, but not limited to:

- (a) Written/practical assessment; and
- (b) Communication skills.

AMENDATORY SECTION (Amending WSR 02-04-012, filed 1/24/02, effective 6/30/02)

WAC 308-20-107 Use and training of instructor-trainees. (1) Instructor-trainees shall be supervised by a licensed instructor ((at all times)). The licensed instructor shall be physically present where the instructor-trainee is working and be available for consultation with the instructor-trainee.

(2) Instructor-trainees shall hold a current Washington state cosmetology, barber, manicurist or esthetician license prior to becoming an instructor-trainee.

AMENDATORY SECTION (Amending WSR 02-04-012, filed 1/24/02, effective 6/30/02)

WAC 308-20-110 Minimum safety and sanitation standards for schools, ((students,)) cosmetologists, manicurists, estheticians, barbers, instructors, salons/shops, ((booth renters,)) mobile ((operators)) units and personal services ((operators)). In addition to the requirements of RCW 18.16.175, every licensee((s and students pursuant to chapter 18.16 RCW)) shall maintain the following safety and sanitation standards:

(1) Safety shall be maintained as follows:

(a) ((Salons/shops, booth renters, mobile operators and schools shall have:

(i) If chemicals are used, an area designated as a chemical and supply dispensary separate from the shampoo area with hot and cold water for the disposal and mixing of all chemicals and disinfecting of supplies, tools, equipment and other materials;

(ii) All chemicals stored and labeled according to manufacturer's instructions;

(iii) A separate area with hot and cold running water shall be designated for use in dispensing and mixing chemicals and disinfecting supplies, tools, equipment, and other materials;

(b) All containers must be clearly labeled;

(c) All chemicals must be stored and labeled according to manufacturer's instructions;

(d) Disinfected supplies, tools, equipment and other material shall be stored separately from those that have been used; ((and

(iv)) (e) First-aid supplies((-)) shall be available; and

((b) Individual)) (f) Licensees ((and students)) shall not work on clients with parasites, open wounds, or signs of infection.

(2) Sanitation shall be maintained as follows:

(a) ((Salons/shops, booth renters, mobile operators and schools shall have:

~~(i))~~ Floors, walls, fixtures, work stations and ceilings shall be clean and free from dust, dirt and hair;

~~((ii))~~ ~~(b)~~ Hair shall be removed from the floor after each service; and

~~((iii))~~ ~~(c)~~ Waste receptacles shall be emptied and disinfected daily.

~~((b) Individual licensees and students shall:~~

~~(i) Dispose of)~~ ~~(d)~~ Disposable products shall be placed in a waste receptacle ((after use));

~~((ii) Use disposable hand drying towels and single use soap;~~

~~(iii) Dispense))~~ ~~(e)~~ Creams and lotions shall be dispensed using a disposable, or sanitized applicator, and fluids shall be dispensed with a squeeze bottle or pump;

~~((iv))~~ ~~(f)~~ Use clean towel, new neck strip or other sanitized supplies for each client;

~~((v))~~ ~~(g)~~ Clean reusable supplies and implements with a disinfectant after each use; and

~~((vi))~~ ~~(h)~~ Wash hands with single-use soap and disposable hand-drying towels after toilet use and before providing service to each client.

AMENDATORY SECTION (Amending WSR 03-08-043, filed 3/27/03, effective 4/27/03)

WAC 308-20-120 Written and performance examinations. (1) ~~((When an applicant for examination as a cosmetologist, barber, manicurist, esthetician or instructor completes the course required in RCW 18.16.100 or meets the requirement to take the examinations described in RCW 18.16.130,))~~ The department shall administer or approve the administration of a written and performance license examination. The department may approve written or performance examinations given by department-approved examination providers.

(2) The written and performance examinations for cosmetologist, barber, manicurist and esthetician shall reasonably measure the applicant's knowledge of safe and sanitary practice. The performance examinations may be divided into skill sections. The overall minimum passing grade for performance examinations shall be seventy-five percent with no section being scored lower than forty percent. If an individual scores lower than forty percent in any one section, the entire performance examination must be retaken. The minimum passing grade for the written examinations shall be seventy-six percent of the total examination questions.

(3) The written and performance examinations for instructors shall be constructed to measure the applicant's knowledge of lesson planning and teaching techniques. The overall minimum passing grade for the performance examination shall be eighty percent. The minimum passing grade for the written examination shall be eighty percent of the total examination questions.

AMENDATORY SECTION (Amending WSR 03-06-054, filed 2/28/03, effective 4/1/03)

WAC 308-20-210 ~~((Cosmetology, barber, manicurist, esthetician, salon/shop, booth renter, mobile operator~~

~~and personal service operator))~~ **Fees.** In addition to any third-party examinations fees, the following fees shall be charged by the professional licensing division of the department of licensing:

Title of Fee	Fee
Cosmetologist:	
<u>Written examination application</u>	\$ 25.00
<u>Written examination retake</u>	25.00
Renewal ((per year)) <u>(two-year license)</u>	((20.00)) 40.00
Late renewal penalty	20.00
Duplicate license	15.00
Certification	25.00
((Out of state application	25.00))
Instructor:	
Examination application	30.00
((Examination retake	30.00))
Renewal ((per year)) <u>(two-year license)</u>	((20.00)) 40.00
Late renewal penalty	20.00
Duplicate license	15.00
Certification	25.00
((Out of state application	30.00))
Manicurist:	
<u>Written examination application</u>	25.00
<u>Written examination retake</u>	25.00
Renewal ((per year)) <u>(two-year license)</u>	((20.00)) 40.00
Late renewal penalty	20.00
Duplicate	15.00
Certification	25.00
((Out of state application	25.00))
Esthetician:	
<u>Written examination application</u>	25.00
<u>Written examination retake</u>	25.00
Renewal ((per year)) <u>(two-year license)</u>	((20.00)) 40.00
Late renewal penalty	20.00
Duplicate	15.00
Certification	25.00
((Out of state application	25.00))
Barber:	
<u>Written examination application</u>	25.00
<u>Written examination retake</u>	25.00
Renewal ((per year)) <u>(two-year license)</u>	((20.00)) 40.00
Late renewal penalty	20.00
Duplicate license	15.00
Certification	25.00

PERMANENT

Title of Fee	Fee
((Out of state application	25.00))
School:	
License application	175.00
Renewal ((per year)) <u>(one-year license)</u>	175.00
Late renewal penalty	175.00
Duplicate	15.00
Curriculum review	15.00
Salon/shop:	
<u>License application</u>	50.00
Renewal <u>(one-year license)</u>	50.00
Late renewal penalty	50.00
Duplicate license	15.00
((Booth renter:	
<u>Application</u>	50.00
<u>Renewal</u>	50.00
Late renewal penalty	50.00
Duplicate license	15.00))
Mobile ((operator)) <u>unit</u> :	
<u>License application</u>	50.00
Renewal <u>(one-year license)</u>	50.00
Late renewal penalty	50.00
Duplicate license	15.00
Personal services ((operator)) :	
<u>License application</u>	50.00
Renewal <u>(one-year license)</u>	50.00
Late renewal penalty	50.00
Duplicate license	15.00

AMENDATORY SECTION (Amending WSR 92-15-087, filed 7/17/92, effective 8/17/92)

WAC 308-20-520 Minimum salon/shop, mobile unit, and personal services licensing standards. No person shall operate a cosmetology, barbering, esthetics, or manicuring salon/shop, ~~((booth rental,))~~ mobile unit, or personal services ~~((operator))~~ business in this state unless the business has qualified for and has in their possession a location license issued by the department of licensing, ~~((professional licensing, cosmetology section))~~. If the ownership of the business changes, a new complete application must be submitted for approval and license issuance. Licenses are not transferable.

- (1) ~~((A salon/shop shall not allow))~~ An operator ((to practice in leased)) that leases space ((unless the operator possesses)) must obtain both a valid operator and ((booth renter)) salon/shop license for that specific location.
- (2) A business that has one or more branch locations shall obtain a separate salon/shop license for each location.
- (3) ~~((A salon/shop establishment that does not meet the requirements of this chapter shall not offer or sublet booth rentals.~~

~~((4)))~~ A licensed operator who provides cosmetology, barbering, esthetics, or manicuring services to place-bound clients in the client's home or in a long or short term health care facility is not required to obtain a location license.

~~((5)))~~ (4) A long or short term health care facility that establishes a salon/shop and operates it on a for profit basis for clients other than place-bound clients shall obtain a location license.

AMENDATORY SECTION (Amending WSR 92-15-087, filed 7/17/92, effective 8/17/92)

WAC 308-20-550 Posting of required licenses, registrations, permits, and notice to consumers. (1) Licenses and the consumer notice required by chapter 18.16 RCW, shall be posted in direct public view ~~((in each salon/shop, rental booth and mobile unit. Personal service operators shall display their licenses and consumer notice in direct view of their client))~~.

(2) Original operator licenses with an attached current photograph shall be posted in clear view of clients in the operator's ~~((booth or))~~ work station. ~~((The residence address of the operator, if shown on the license, may be blocked from public view.))~~

(3) School, instructor, salon/shop, and mobile unit licenses shall be displayed in the reception area.

(4) Personal services shall display their licenses and consumer notice in direct view of their client.

(5) A pocket identification card may not be used in lieu of an original license.

~~((4)))~~ (6) No license which has expired or become invalid for any reason shall be displayed by any operator, instructor, or business in connection with the practice of cosmetology, barbering, esthetics, or manicuring. Any license so displayed shall be surrendered to a department representative upon its request.

~~((5)))~~ (7) Licenses issued by another state, territory, or foreign country shall not be displayed in any salon/shop.

~~((6)))~~ (8) A receipt, issued by the department of licensing, showing the application for a duplicate license may be used if the original has been lost, stolen, or otherwise destroyed until the duplicate license is received.

AMENDATORY SECTION (Amending WSR 92-15-087, filed 7/17/92, effective 8/17/92)

WAC 308-20-560 ((Booth renter)) Salon/shop, mobile ((operator)) unit, and personal services ((operator)) location license renewal process. Each ~~((booth renter))~~ salon/shop, mobile ((operator)) unit, and personal services ((operator)) license shall be renewed on a yearly basis ((to conform to the date of birth of the owner of the business)). The renewal request shall be accompanied by:

(1) The license renewal fee required under the provisions of WAC 320-20-210.

(2) ~~((Confirmation, from the insurance company, of continued coverage of public liability insurance for the requested license renewal period.))~~ Affidavit of certification of public liability insurance including, name of provider, policy num-

PERMANENT

ber, effective date, expiration date, amount of coverage, and signature of licensee.

(3) A statement noting any changes to the information contained in the original application form and attachments.

(4) Licenses must be renewed on or before the expiration date. Failure to renew the license by the expiration date shall result in a penalty fee.

(5) Failure to receive a notice of license renewal from the department (~~shall~~) does not constitute cause for failure to renew.

AMENDATORY SECTION (Amending WSR 92-15-087, filed 7/17/92, effective 8/17/92)

WAC 308-20-570 (~~(Salon/shop license)~~) **Operator and instructor renewal process.** (~~Each salon/shop license shall be renewed on a yearly basis prior to the first day of September of each year. The renewal request shall be accompanied by:~~

(1) ~~The license renewal fee required under the provisions of WAC 320-20-210.~~

(2) ~~Confirmation, from the insurance company, of continued coverage of public liability insurance for the requested license renewal period.~~

(3) ~~A statement noting any changes to the information contained in the original application form and attachments.~~

(4) ~~Licenses must be renewed on or before the expiration date. Failure to renew the license by the expiration date shall result in a penalty fee.~~

(5) ~~Failure to receive a notice of license renewal from the department shall not constitute cause for failure to renew.)~~ Each operator or instructor license shall be renewed every two years. The renewal request shall be accompanied by:

(1) Social Security number.

(2) The license renewal fee required under the provisions of WAC 308-20-210.

(3) A statement noting any changes to the information contained in the original application form and attachments.

(4) Licenses must be renewed on or before the expiration date. Failure to renew the license by the expiration date shall result in a penalty fee.

(5) Failure to receive a notice of license renewal from the department does not constitute cause for failure to renew.

NEW SECTION

WAC 308-20-575 School license renewal process. Each school shall be renewed on a yearly basis. The renewal request shall be accompanied by:

(1) Certification of annual gross tuition and surety bond in an amount equal to ten percent of the annual gross tuition, but not less than ten thousand dollars or more than fifty thousand dollars.

(2) Changes in curriculum, catalogs, brochures.

(3) Current list of instructors on forms provided by the department.

(4) Verification of current student/instructor ratio.

(5) Licenses must be renewed on or before the expiration date. Failure to renew the license by the expiration date shall result in a penalty.

(6) Failure to receive a notice of license renewal from the department does not constitute cause for failure to renew.

AMENDATORY SECTION (Amending WSR 92-15-087, filed 7/17/92, effective 8/17/92)

WAC 308-20-600 Disinfecting and sterilizing of tools and other implements. Adequate (~~chemical disinfecting agents or~~) disinfectants and sterilization equipment shall be available for use as needed at all times when the business is open to clients or operators.

(1) When sterilization equipment is used it shall be checked annually to assure that it is reaching the temperature required by the manufacturer's instructions.

(2) When commercially manufactured disinfectant solution is used it shall be mixed and used according to the manufacturer's instructions.

(3) When used according to the manufacturer's instructions the following methods may be used to disinfect (~~and~~) or sterilize tools and equipment.

(a) Immersion of the object in the disinfectant solution.

(b) Dry heat or autoclave sterilizer registered with the Federal Food and Drug Administration.

(4) All single-use items which cannot be sterilized or disinfected (~~and~~) shall be discarded after (~~each~~) use.

AMENDATORY SECTION (Amending WSR 97-10-049, filed 5/1/97, effective 6/1/97)

WAC 308-20-710 Application of brief adjudicative proceedings. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether an applicant for a license meets the minimum criteria for a license to practice as a salon/shop, (~~booth renter,~~) mobile (~~operator~~) unit, personal services (~~operator~~), instructor, cosmetologist, barber, manicurist, esthetician or school in this state and the department proposes to deny the application;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether an education course or curriculum meets the criteria for approval when approval by the department is required or authorized by statute or rule;

(4) Whether a license holder requesting renewal has submitted all required information and whether a license holder meets minimum criteria for renewal; and

(5) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship.

PERMANENT

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-20-180	Posting of license.
WAC 308-20-530	Minimum licensing requirements.

**WSR 03-14-052
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION**

[Filed June 25, 2003, 12:57 p.m., effective August 1, 2003]

Date of Adoption: June 10, 2003.

Purpose: Amend commission procedural rules for appeals of county land use decisions in the Columbia River Gorge National Scenic Area to clarify, simplify, and expedite appeal procedures.

Citation of Existing Rules Affected by this Order: Repealing 350-60-140; and amending 350-60-020, 350-60-040, 350-60-050, 350-60-060, 350-60-070, 350-60-080, 350-60-090, 350-60-100, 350-60-120, 350-60-130, 350-60-150, 350-60-160, 350-60-170, 350-60-180, 350-60-190, 350-60-200, 350-60-210, and 350-60-220.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: 16 U.S.C. 544c(b); 16 U.S.C. 544m (a)(2).

Adopted under notice filed as WSR 03-09-078 on April 17, 2003.

Changes Other than Editing from Proposed to Adopted Version: Significant changes from proposed to adopted version include: 350-60-040 (12)(b), 350-60-070(2), 350-60-075 (6)(A), 350-60-050 (3)(j), 350-60-220 (2)(a) and (b) and 350-60-240 (1), (2), (3), (4), and (7). The commission made other minor wording changes throughout.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 6, Amended 18, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 18, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The commission voted to make the rules effective August 1, 2003, to ensure that the rules would be effective at the same time in both Oregon and Washington.

Effective Date of Rule: August 1, 2003.

June 20, 2003
Nancy A. Andring
Rules 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 03-16 issue of the Register.

**WSR 03-14-053
PERMANENT RULES
COLUMBIA RIVER
GORGE COMMISSION**

[Filed June 25, 2003, 12:57 p.m., effective August 1, 2003]

Date of Adoption: June 10, 2003.

Purpose: Amend commission procedural rules for appeals of land use decisions by the executive director of the gorge commission to clarify, simplify, and expedite appeal procedures.

Citation of Existing Rules Affected by this Order: Repealing 350-70-100 and 350-70-180; and amending 350-70-000, 350-70-020, 350-70-040, 350-70-050, 350-70-060, 350-70-070, 350-70-080, 350-70-090, 350-70-110, 350-70-120, 350-70-130, 350-70-140, 350-70-150, 350-70-160, 350-70-170, 350-70-190, 350-70-200, 350-70-210, 350-70-220, and 350-70-230.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: 16 U.S.C. 544c(b); 16 U.S.C. 544m (a)(2).

Adopted under notice filed as WSR 03-09-079 on April 17, 2003.

Changes Other than Editing from Proposed to Adopted Version: Significant changes from proposed to adopted version include: 350-60-040 (11)(b), 350-60-070(2), 350-60-075 (6)(A), 350-60-050 (3)(j), 350-60-220 (2)(a) and (b) and 350-60-240 (1), (2), (3), (4), and (7). The commission made other minor wording changes throughout.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 2, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 6, Amended 20, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 20, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The commission voted to make the rules effective August 1, 2003, to ensure that the rules would be effective at the same time in both Oregon and Washington.

PERMANENT

Effective Date of Rule: August 1, 2003.

June 20, 2003

Nancy A. Andring
Rules 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 03-16 issue of the Register.

WSR 03-14-062
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed June 25, 2003, 4:30 p.m.]

Date of Adoption: June 20, 2003.

Purpose: Adopting new WAC 388-25-0018, to comply with federal law and regulation (Title IV, Section 471 (a)(14) of the Social Security Act, and 45 C.F.R. 1356.21(n)) which mandate states to make a projection as to the number or percentage of children they will have in foster care in excess of twenty-four months and to codify this requirement in state law. Washington state did have a rule (WAC 388-70-010) addressing this federal requirement, but it was repealed in error in rules adopted as WSR 01-08-047. The state is also mandated by its own statute, RCW 74.13.055, to have this rule.

Statutory Authority for Adoption: RCW 34.05.353 and 74.13.055.

Adopted under notice filed as WSR 03-08-087 on April 1, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 20, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

who remain in care in excess of twenty-four months to no more than thirty-five percent of the foster care population.

WSR 03-14-072

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed June 26, 2003, 3:36 p.m., effective July 1, 2003]

Date of Adoption: June 26, 2003.

Purpose: WAC 458-40-660 contains the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is being revised to provide the stumpage values to be used during the second half of 2003.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-660 Timber excise tax—Stumpage value tables.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 03-10-079 on May 6, 2003.

Changes Other than Editing from Proposed to Adopted Version: Based upon testimony at the hearing and further data collected upon the value of small logs for SVA 6 were reduced by one dollar.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The stumpage value rule is required by statute (RCW 84.33.091) to be effective on July 1, 2003.

Effective Date of Rule: July 1, 2003.

June 26, 2003

Alan R. Lynn

Rules Coordinator

Legislation and Policy Division

NEW SECTION

WAC 388-25-0018 What is the agency's goal as to the maximum number of children who remain in foster care in excess of twenty-four months? The placement goal for the foster care program is to limit the number of all children

AMENDATORY SECTION (Amending WSR 03-02-004, filed 12/19/02, effective 1/1/03)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage

value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((January)) July 1 through ((June 30)) December 31, 2003:

((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$395	\$388	\$381	\$374	\$367
		2	395	388	381	374	367
		3	371	364	357	350	343
		4	355	348	341	334	327
Western Redcedar(2)	RC	1	638	631	624	617	610
		2	638	631	624	617	610
		3	638	631	624	617	610
		4	638	631	624	617	610
Western Hemlock and Other Conifer(3)	WH	1	333	326	319	312	305
		2	237	230	223	216	209
		3	234	227	220	213	206
		4	234	227	220	213	206
Red Alder	RA	1	310	303	296	289	282
		2	269	262	255	248	241
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	178	171	164	157	150
Douglas Fir Poles	DFL	1	683	676	669	662	655
Western Redcedar Poles	RCL	1	1094	1087	1080	1073	1066
Chipwood	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts(4)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees(5)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(5)	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
 (2) Includes Alaska Cedar.
 (3) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
 (4) Stumpage value per 8 lineal feet or portion thereof.
 (5) Stumpage value per lineal foot.

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$395	\$388	\$381	\$374	\$367
		2	389	382	375	368	361
		3	378	371	364	357	350
		4	367	360	353	346	339
Western Redcedar(2)	RC	1	638	631	624	617	610
Western Hemlock and Other Conifer(3)	WH	1	333	326	319	312	305
		2	247	240	233	226	219
		3	240	233	226	219	212
		4	240	233	226	219	212
Red Alder	RA	1	310	303	296	289	282
		2	269	262	255	248	241
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	178	171	164	157	150
Douglas Fir Poles	DFL	1	683	676	669	662	655
Western Redcedar Poles	RCL	1	1094	1087	1080	1073	1066
Chipwood	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts(4)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees(5)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(5)	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
 (2) Includes Alaska Cedar.
 (3) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
 (4) Stumpage value per 8 lineal feet or portion thereof.
 (5) Stumpage value per lineal foot.

PERMANENT

TABLE 3—Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 2003

Species Name	Species Code	Quality	Hauling									
			Distance	Zone	Number	1	2	3	4	5		
Douglas Fir(2)	DF	1	\$395	\$388	\$381	\$374	\$367	2	3	3	4	4
			355	362	369	376	383	387	394	401	408	415
			314	321	328	335	342	349	356	363	370	377
			206	213	220	227	234	241	248	255	262	269
			199	206	213	220	227	234	241	248	255	262
Western Hemlock and- Other Conifer(4)	WH	1	333	326	319	312	305	2	3	4	5	6
			305	312	319	326	333	340	347	354	361	368
			282	289	296	303	310	317	324	331	338	345
			248	255	262	269	276	283	290	297	304	311
			241	248	255	262	269	276	283	290	297	304
Black Cottonwood	BC	1	1	1	1	1	1	2	3	4	5	6
			1	1	1	1	1	2	3	4	5	6
Other Hardwood	OH	1	178	171	164	157	150	1	2	3	4	5
			150	157	164	171	178	185	192	199	206	213
Douglas Fir Poles	DFP	1	683	676	669	662	655	1	2	3	4	5
			655	662	669	676	683	690	697	704	711	718
Western Redcedar Poles	RCP	1	1094	1087	1080	1073	1066	1	2	3	4	5
			1066	1073	1080	1087	1094	1101	1108	1115	1122	1129
Chipwood	CHW	1	1	1	1	1	1	1	2	3	4	5
			1	1	1	1	1	2	3	4	5	6
RC Shake Blocks	RCS	1	303	296	289	282	275	1	2	3	4	5
			275	282	289	296	303	310	317	324	331	338
RC Shingle Blocks	RCF	1	121	114	107	100	93	1	2	3	4	5
			93	100	107	114	121	128	135	142	149	156
RC & Other Posts(5)	RCP	1	0.45	0.45	0.45	0.45	0.45	1	2	3	4	5
			0.45	0.45	0.45	0.45	0.45	0.50	0.50	0.50	0.50	0.50
Other Christmas Trees(6)	OTX	1	0.50	0.50	0.50	0.50	0.50	1	2	3	4	5
			0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington—See conversion methods WAC 458-40-680.
(2) Includes Western Larch.
(3) Includes Alaska Cedar.
(4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
(5) Stumpage value per 8 lineal feet or portion thereof.
(6) Stumpage value per lineal foot.

TABLE 4—Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 2003

Species Name	Species Code	Quality	Hauling									
			Distance	Zone	Number	1	2	3	4	5		
Douglas Fir(2)	DF	1	\$405	\$398	\$391	\$384	\$377	2	3	3	4	4
			377	384	391	398	405	412	419	426	433	440
			356	363	370	377	384	391	398	405	412	419
			341	348	355	362	369	376	383	390	397	404
			139	146	153	160	167	174	181	188	195	202
Lodgepole Pine	LP	1	167	160	153	146	139	1	2	3	4	5
			139	146	153	160	167	174	181	188	195	202
Ponderosa Pine	PP	1	332	325	318	311	304	1	2	3	4	5
			304	311	318	325	332	339	346	353	360	367
Western Redcedar(3)	RC	1	638	631	624	617	610	1	2	3	4	5
			610	617	624	631	638	645	652	659	666	673
Western Hemlock and- Other Conifer(4)	WH	1	333	326	319	312	305	1	2	3	4	5
			305	312	319	326	333	340	347	354	361	368
			282	289	296	303	310	317	324	331	338	345
			248	255	262	269	276	283	290	297	304	311
			241	248	255	262	269	276	283	290	297	304
Black Cottonwood	BC	1	1	1	1	1	1	1	2	3	4	5
			1	1	1	1	1	2	3	4	5	6
Other Hardwood	OH	1	178	171	164	157	150	1	2	3	4	5
			150	157	164	171	178	185	192	199	206	213
Douglas Fir Poles	DFP	1	683	676	669	662	655	1	2	3	4	5
			655	662	669	676	683	690	697	704	711	718
Western Redcedar Poles	RCP	1	1094	1087	1080	1073	1066	1	2	3	4	5
			1066	1073	1080	1087	1094	1101	1108	1115	1122	1129
Chipwood	CHW	1	1	1	1	1	1	1	2	3	4	5
			1	1	1	1	1	2	3	4	5	6
RC Shake Blocks	RCS	1	303	296	289	282	275	1	2	3	4	5
			275	282	289	296	303	310	317	324	331	338
RC Shingle Blocks	RCF	1	121	114	107	100	93	1	2	3	4	5
			93	100	107	114	121	128	135	142	149	156
RC & Other Posts(5)	RCP	1	0.45	0.45	0.45	0.45	0.45	1	2	3	4	5
			0.45	0.45	0.45	0.45	0.45	0.50	0.50	0.50	0.50	0.50
Other Christmas Trees(6)	OTX	1	0.50	0.50	0.50	0.50	0.50	1	2	3	4	5
			0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington—See conversion methods WAC 458-40-680.
(2) Includes Western Larch.
(3) Includes Alaska Cedar.
(4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
(5) Stumpage value per 8 lineal feet or portion thereof.
(6) Stumpage value per lineal foot.

PERMANENT

TABLE 5—Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 2003

TABLE 6—Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir(2)	DF	1	\$402	\$395	\$388	\$381	\$374
		2	401	394	387	380	373
		3	375	368	361	354	347
		4	340	333	326	319	312
Lodgepole Pine	LP	1	167	160	153	146	139
Ponderosa Pine	PP	1	332	325	318	311	304
		2	188	181	174	167	160
Western Redcedar(3)	RC	1	638	631	624	617	610
Western Hemlock and Other Conifer(4)	WH	1	333	326	319	312	305
		2	239	232	225	218	211
		3	239	232	225	218	211
		4	239	232	225	218	211
Red Alder	RA	1	310	303	296	289	282
		2	269	262	255	248	241
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	178	171	164	157	150
Douglas Fir Poles	DFL	1	683	676	669	662	655
Western Redcedar Poles	RCL	1	1094	1087	1080	1073	1066
Chipwood	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts(5)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees(6)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(6)	TFX	1	0.50	0.50	0.50	0.50	0.50

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir(2)	DF	1	\$280	\$273	\$266	\$259	\$252
Lodgepole Pine	LP	1	167	160	153	146	139
Ponderosa Pine	PP	1	332	325	318	311	304
		2	188	181	174	167	160
Western Redcedar(3)	RC	1	505	498	491	484	477
True Firs and Spruce(4)	WH	1	159	152	145	138	131
Western White Pine	WP	1	420	413	406	399	392
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	516	509	502	495	488
Small Logs	SML	1	25	24	23	22	21
Chipwood	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts(5)	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees(6)	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(7)	DFX	1	0.25	0.25	0.25	0.25	0.25

(1) Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes Alaska Cedar.

(4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

(5) Stumpage value per 8 lineal feet or portion thereof.

(6) Stumpage value per lineal foot.

(1) Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes Alaska Cedar.

(4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

(5) Stumpage value per 8 lineal feet or portion thereof.

(6) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

(7) Stumpage value per lineal foot.

PERMANENT

TABLE 7—Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 2003

Species Name	Species Code	Quality	Distance	Zone Number	Timber				
					1	2	3	4	5
Douglas Fir(2)	DF	+	\$301	\$294	\$287	\$280	\$273		
Lodgepole Pine	LP	+	245	238	231	224	217	210	
Ponderosa Pine	PP	+	369	362	355	348	341		
Western Redcedar(3)	RC	+	505	498	491	484	477		
True Firs and Spruce(4)	WH	+	238	231	224	217	210		
Western White Pine	WP	+	420	413	406	399	392		
Hardwoods	OH	+	50	43	36	29	22		
Western Redcedar Poles	RCB	+	516	509	502	495	488		
Small Logs	SMB	+	19	18	17	16	15		
Chipwood	CHW	+	+	+	+	+	+		
RC Shake & Shingle Blocks	RCF	+	92	85	78	71	64		
LP & Other Posts(5)	LP	+	0.35	0.35	0.35	0.35	0.35		
Pine Christmas Trees(6)	PX	+	0.25	0.25	0.25	0.25	0.25		
Other Christmas Trees(7)	DPX	+	0.25	0.25	0.25	0.25	0.25		

(1) Log scale conversions Western and Eastern Washington—See conversion methods WAC 458-40-680.
(2) Includes Western Larch.
(3) Includes Alaska Cedar.
(4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce-Pacific Silver Fir, as "White Fir."
(5) Stumpage value per lineal foot or portion thereof.
(6) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
(7) Stumpage value per lineal foot.

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
January 1 through June 30, 2003

Species Name	Species Code	Quality	Distance	Zone Number	Timber				
					1	2	3	4	5
Douglas Fir(2)	DF	+	\$391	\$384	\$377	\$370	\$363		
Lodgepole Pine	LP	+	167	160	153	146	139		
Ponderosa Pine	PP	+	332	325	318	311	304		
Western Redcedar(3)	RC	+	624	617	610	603	596		
Western Hemlock and Other Conifer(4)	WH	+	319	312	305	298	291		
Other Conifer(4)		2	261	254	247	240	233		
Western Redcedar Poles	RCB	+	669	662	655	648	641		
Douglas Fir Poles	DPL	+	669	662	655	648	641		
Western Redcedar Poles	RCB	+	1080	1073	1066	1059	1052		
Chipwood	CHW	+	+	+	+	+	+		
RC Shake Blocks	RCB	+	303	296	289	282	275		
RC Shingle Blocks	RCF	+	121	114	107	100	93		
RC & Other Posts(5)	RCP	+	0.45	0.45	0.45	0.45	0.45		
DP Christmas Trees(6)	DPX	+	0.25	0.25	0.25	0.25	0.25		
Other Christmas Trees(6)	DPX	+	0.50	0.50	0.50	0.50	0.50		

(1) Log scale conversions Western and Eastern Washington—See conversion methods WAC 458-40-680.
(2) Includes Western Larch.
(3) Includes Alaska Cedar.
(4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce-Pacific Silver Fir, as "White Fir."
(5) Stumpage value per lineal foot or portion thereof.
(6) Stumpage value per lineal foot or portion thereof.

PERMANENT

TABLE 1—Stumpage Value Table
Stumpage Value Area 1
 July 1 through December 31, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$421	\$414	\$407	\$400	\$393
		2	374	367	360	353	346
		3	362	355	348	341	334
		4	358	351	344	337	330
Western Redcedar ⁽²⁾	RC	1	814	807	800	793	786
Western Hemlock and Other Conifer ⁽³⁾	WH	1	330	323	316	309	302
		2	236	229	222	215	208
		3	233	226	219	212	205
		4	231	224	217	210	203
Red Alder	RA	1	333	326	319	312	305
		2	284	277	270	263	256
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	182	175	168	161	154
Douglas-Fir Poles	DFL	1	676	669	662	655	648
Western Redcedar Poles	RCL	1	1079	1072	1065	1058	1051
Chipwood	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁴⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁵⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁵⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁴⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁵⁾ Stumpage value per lineal foot.

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 July 1 through December 31, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$384	\$377	\$370	\$363	\$356
		2	379	372	365	358	351
		3	377	370	363	356	349
		4	285	278	271	264	257
Western Redcedar ⁽²⁾	RC	1	814	807	800	793	786
Western Hemlock and Other Conifer ⁽³⁾	WH	1	330	323	316	309	302
		2	250	243	236	229	222
		3	229	222	215	208	201
		4	226	219	212	205	198
Red Alder	RA	1	333	326	319	312	305
		2	284	277	270	263	256
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	182	175	168	161	154
Douglas-Fir Poles	DFL	1	676	669	662	655	648
Western Redcedar Poles	RCL	1	1079	1072	1065	1058	1051
Chipwood	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁴⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁵⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁵⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Alaska-Cedar.

⁽³⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁴⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁵⁾ Stumpage value per lineal foot.

PERMANENT

TABLE 3—Stumpage Value Table
Stumpage Value Area 3
 July 1 through December 31, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$349	\$342	\$335	\$328	\$321
		2	323	316	309	302	295
		3	308	301	294	287	280
		4	308	301	294	287	280
Western Redcedar ⁽³⁾	RC	1	814	807	800	793	786
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	330	323	316	309	302
		2	247	240	233	226	219
		3	217	210	203	196	189
		4	185	178	171	164	157
Red Alder	RA	1	333	326	319	312	305
		2	284	277	270	263	256
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	182	175	168	161	154
Douglas-Fir Poles	DFL	1	676	669	662	655	648
Western Redcedar Poles	RCL	1	1079	1072	1065	1058	1051
Chipwood	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁶⁾ Stumpage value per lineal foot.

TABLE 4—Stumpage Value Table
Stumpage Value Area 4
 July 1 through December 31, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$384	\$377	\$370	\$363	\$356
		2	380	373	366	359	352
		3	377	370	363	356	349
		4	366	359	352	345	338
Lodgepole Pine	LP	1	160	153	146	139	132
Ponderosa Pine	PP	1	310	303	296	289	282
		2	213	206	199	192	185
Western Redcedar ⁽³⁾	RC	1	814	807	800	793	786
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	330	323	316	309	302
		2	242	235	228	221	214
		3	233	226	219	212	205
		4	209	202	195	188	181
Red Alder	RA	1	333	326	319	312	305
		2	284	277	270	263	256
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	182	175	168	161	154
Douglas-Fir Poles	DFL	1	676	669	662	655	648
Western Redcedar Poles	RCL	1	1079	1072	1065	1058	1051
Chipwood	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁶⁾ Stumpage value per lineal foot.

PERMANENT

TABLE 5—Stumpage Value Table
Stumpage Value Area 5
 July 1 through December 31, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$479	\$472	\$465	\$458	\$451
		2	395	388	381	374	367
		3	377	370	363	356	349
		4	348	341	334	327	320
Lodgepole Pine	LP	1	160	153	146	139	132
Ponderosa Pine	PP	1	310	303	296	289	282
		2	213	206	199	192	185
Western Redcedar ⁽³⁾	RC	1	814	807	800	793	786
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	330	323	316	309	302
		2	210	203	196	189	182
		3	210	203	196	189	182
		4	210	203	196	189	182
Red Alder	RA	1	333	326	319	312	305
		2	284	277	270	263	256
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	182	175	168	161	154
Douglas-Fir Poles	DFL	1	676	669	662	655	648
Western Redcedar Poles	RCL	1	1079	1072	1065	1058	1051
Chipwood	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁶⁾ Stumpage value per lineal foot.

TABLE 6—Stumpage Value Table
Stumpage Value Area 6
 July 1 through December 31, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$272	\$265	\$258	\$251	\$244
Lodgepole Pine	LP	1	160	153	146	139	132
Ponderosa Pine	PP	1	310	303	296	289	282
		2	213	206	199	192	185
Western Redcedar ⁽³⁾	RC	1	530	523	516	509	502
True Firs and Spruce ⁽⁴⁾	WH	1	150	143	136	129	122
Western White Pine	WP	1	370	363	356	349	342
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	530	523	516	509	502
Small Logs	SML	1	28	27	26	25	24
Chipwood	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁵⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁶⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

⁽²⁾ Includes Western Larch.

⁽³⁾ Includes Alaska-Cedar.

⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.

⁽⁶⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁽⁷⁾ Stumpage value per lineal foot.

PERMANENT

TABLE 7—Stumpage Value Table
Stumpage Value Area 7
 July 1 through December 31, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$277	\$270	\$263	\$256	\$249
Lodgepole Pine	LP	1	209	202	195	188	181
Ponderosa Pine	PP	1	333	326	319	312	305
		2	261	254	247	240	233
Western Redcedar ⁽³⁾	RC	1	530	523	516	509	502
True Firs and Spruce ⁽⁴⁾	WH	1	212	205	198	191	184
Western White Pine	WP	1	370	363	356	349	342
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	530	523	516	509	502
Small Logs	SML	1	19	18	17	16	15
Chipwood	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁵⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁶⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁶⁾ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁽⁷⁾ Stumpage value per lineal foot.

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 July 1 through December 31, 2003

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$370	\$363	\$356	\$349	\$342
		2	366	359	352	345	338
		3	363	356	349	342	335
		4	352	345	338	331	324
Lodgepole Pine	LP	1	160	153	146	139	132
Ponderosa Pine	PP	1	310	303	296	289	282
		2	213	206	199	192	185
Western Redcedar ⁽³⁾	RC	1	800	793	786	779	772
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	316	309	302	295	288
		2	228	221	214	207	200
		3	219	212	205	198	191
		4	195	188	181	174	167
Red Alder	RA	1	319	312	305	298	291
		2	270	263	256	249	242
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	168	161	154	147	140
Douglas-Fir Poles	DFL	1	662	655	648	641	634
Western Redcedar Poles	RCL	1	1065	1058	1051	1044	1037
Chipwood	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

⁽¹⁾ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
⁽²⁾ Includes Western Larch.
⁽³⁾ Includes Alaska-Cedar.
⁽⁴⁾ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁽⁵⁾ Stumpage value per 8 lineal feet or portion thereof.
⁽⁶⁾ Stumpage value per lineal foot.

PERMANENT

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from July 1 through December 31, ~~((2002))~~ 2003:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
~~((January))~~ July 1 through ~~((June 30))~~ December 31, 2003

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$30.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
~~((January))~~ July 1 through ~~((June 30))~~ December 31, 2003

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	-\$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	-\$10.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00

Note: A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.

PERMANENT

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

Purpose: This proposed amendment is designed to establish the requirement for taking the seven-hour national USPAP update course or its equivalent or the fifteen-hour national USPAP course every renewal.

Citation of Existing Rules Affected by this Order: Amending WAC 308-125-090.

Statutory Authority for Adoption: RCW 18.140.030(8).

Adopted under notice filed as WSR 03-11-050 on May 16, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 27, 2003

Alan E. Rathbun

Assistant Director, BPD

AMENDATORY SECTION (Amending WSR 99-11-039, filed 5/14/99, effective 6/14/99)

WAC 308-125-090 Continuing education required.

(1) As a prerequisite to renewal of certification or licensure, the holder of a certificate or license shall present evidence satisfactory to the director of successful completion of the continuing education requirements of this section.

(2) The continuing education requirements for renewal of certification or licensure shall be the completion by the applicant of (~~twenty classroom~~) twenty-eight hours of instruction in courses or seminars which have received the approval of the director. Courses must be completed within the term of certification or licensure immediately preceding renewal(~~— Provided, That effective January 1, 1998, the number of classroom hours is twenty-eight; further, every other renewal period, the holder of a certificate or license will present evidence of successful completion of at least fifteen hours of approved USPAP related continuing education. The hours of USPAP education may be included in the total education hours submitted for both the current and previous renewal periods~~). An applicant shall not receive credit in consecutive renewals for courses that have the same or very similar content and are deemed comparable by the department. The holder of a certificate or license will present evidence of successful completion of the seven-hour National USPAP update course or its equivalent, or the fifteen-hour National USPAP course every renewal.

WSR 03-14-091
PERMANENT RULES
DEPARTMENT OF LICENSING
 [Filed June 30, 2003, 11:32 a.m.]

Date of Adoption: June 27, 2003.

PERMANENT

(3) In order for courses or seminars to be accepted under subsection (2) of this section, the course or seminar must be a minimum of two hours in length and be directly related to real estate appraising. However, a maximum of one-half of the continuing education hours required for renewal can be in two-hour seminars or courses.

(4) An examination is not required for courses or seminars taken for continuing education classroom hours. The exception is the fifteen-hour Uniform Standards of Professional Appraisal Practice (USPAP) course when required by the course provider.

(5) The requirement under subsection (2) of this section may be met by participation other than as a student in educational process and programs approved by the director including teaching, program development, and authorship of textbooks and other written instructional materials.

(6) Courses or seminars taken to satisfy the continuing education requirement for general real estate appraisers, should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitrations.
- (c) Business courses related to practice of real estate.
- (d) Construction estimating.
- (e) Ethics and standards of professional practice.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing, brokerage, timesharing.
- (h) Property development.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate financing and investment.
- (k) Real estate law.
- (l) Real estate litigation.
- (m) Real estate related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) Such other presentations approved by the director.

(7) Courses or seminars taken to satisfy the continuing education requirement for residential real estate appraisers should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Business courses related to practice of real estate.
- (c) Construction estimation.
- (d) Ethics and standards of professional practice.
- (e) Land use planning, zoning, taxation.
- (f) Property development.
- (g) Real estate financing and investment.
- (h) Real estate law.
- (i) Real estate related computer applications.
- (j) Real estate securities and syndication.
- (k) Real property exchange.
- (l) Real estate feasibility and marketability studies.
- (m) Such other presentations approved by the director.
- (n) Real estate securities and syndication.
- (o) Real estate property exchange.
- (p) Such other presentations approved by the director.

(8) Courses or seminars taken to satisfy the continuing education requirement for licensed real estate appraisers should include coverage of real estate appraisal related topics, such as:

- (a) Ad valorem taxation.
- (b) Arbitration.
- (c) Business courses related to practice of real estate appraisal.
- (d) Construction estimating.
- (e) ~~((Ethics))~~ Ethics and standards of professional practice.
- (f) Land use planning, zoning, and taxation.
- (g) Management, leasing brokerage, timesharing.
- (h) Property development.
- (i) Real estate appraisal (valuations/evaluations).
- (j) Real estate law.
- (k) Real estate litigation.
- (l) Real estate financing and investment.
- (m) Real estate appraisal related computer applications.
- (n) Real estate securities and syndication.
- (o) Real property exchange.
- (p) Such other presentations approved by the director.

WSR 03-14-092

PERMANENT RULES OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2002-06—Filed June 30, 2003,
12:16 p.m., effective October 1, 2003]

Date of Adoption: June 30, 2003.

Purpose: Automobile total loss settlement is the single largest source of consumer inquiries and complaints received by the property and casualty section of the consumer advocacy division. The commissioner has reviewed WAC 284-30-390 and these regulations clarify, simplify, and make this chapter more effective.

Citation of Existing Rules Affected by this Order:
Amending WAC 284-30-390.

Statutory Authority for Adoption: RCW 48.02.060,
48.30.010.

Adopted under notice filed as WSR 03-09-143 on April
23, 2003.

Changes Other than Editing from Proposed to Adopted
Version:

- WAC 284-30-390, reference to "WAC 284-30-3915" was changed to "WAC 284-30-3916" to include the last section.
- WAC 284-30-3901, "WAC 284-30-3915" was changed to "WAC 284-30-3916" to include the last section; (2) deleted "has been verified by the insurer to be" added "is"; deleted "as determined and measured within the principally garaged area" added "if they are itemized and appropriate in dollar amount. An insurer must consider information supplied by your when determining deductions or additions."
- WAC 284-30-3902(3), replaced "Your" with "The." Deleted "(a) Inspect a replacement vehicle," (5) replaced "the" with "your" and replaced "shall" with "must."

- WAC 284-30-3903 (3)(a), deleted "a"; made "shop" and "names" plural and added "reasonably close to you."
- WAC 284-30-3904(1), deleted "the company" and added "your insurer." (2) Replaced "The" with "Your."
- WAC 284-30-3907, in section heading deleted "an" and replaced with "my." (1) and (2) deleted references to "An" insurer and replaced them with "Your" insurer. (2)(vi) deleted "Minimum thirty" and added "If more than thirty comparable vehicles are used, only thirty must be listed." (e) Deleted "The" and replaced with "Your."
- WAC 284-30-3908, in section heading replaced "reduce" with "adjust" and in 1st paragraph replaced "reduced" with "adjusted." (1) added "unrepaired" in front of damage. (2) added "At your request."
- WAC 284-30-3911 (1) and (2), replaced "the" with "your." (3)(g) deleted "the list required under this section must include a minimum of thirty comparable vehicles and" and replaced with "the insurer must." Added "If more than thirty comparable vehicles are used, only thirty must be listed."
- WAC 284-30-3912, in the section heading "the" was replaced with "my." (2) deleted "in excess of" and added "that costs more than"; deleted "the" and replaced with "your"; (b) deleted "before applicable deductions."
- WAC 284-30-3916, in the last sentence, "The" insurer was changed to "Your" insurer.

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 16, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 16, 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 16, Amended 1, Repealed 0.

Effective Date of Rule: October 1, 2003.

June 30, 2003

Mike Watson

for Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 87-5, filed 4/21/87)

WAC 284-30-390 (~~Standards for prompt, fair and equitable settlements applicable to automobile insurance.~~) **Regulation of settlements of insurance claims relating to vehicles.** (~~The following standards apply to~~

~~insurance claims relating to motorcycles and private passenger automobiles as defined in RCW 48.18.297:~~

~~(1) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:~~

~~(a) The insurer may elect to offer a replacement automobile which is a specific comparable automobile available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.~~

~~(b) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile including all applicable taxes, license fees and other fee incident to transfer of evidence of ownership of a comparable automobile. Such cost may be determined by~~

~~(i) The cost of a comparable automobile in the local market area when a comparable automobile is available in the local market area. Any settlement offer which relies upon prices of automobiles advertised for sale in local newspapers may include only prices for automobiles verified by the insurer as being comparable in age and condition to the insured automobile; or~~

~~(ii) One of two or more quotations obtained by the insurer from two or more qualified dealers located within the local market area when a comparable automobile is not available in the local market area. An insurer must accurately describe the age and condition of the insured automobile to the dealers surveyed and may use only price quotations for the retail selling price of a comparable automobile.~~

~~(e) When a first party automobile total loss is settled on a basis which deviates from the methods described in subsections (1)(a) and (1)(b) of this section, the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first party claimant.~~

~~(2) Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claim under their own policies solely to avoid paying claims under such insurer's insurance policy or insurance contract.~~

~~(3) Insurers shall not require a claimant to travel unreasonably either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop, or to obtain a temporary rental or loaner automobile.~~

~~(4) Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allo-~~

eated loss adjustment expense. An insurer shall keep first party claimants apprised of its efforts relative to subrogation claims.

(5) If an insurer prepares an estimate of the cost of automobile repairs, such estimate shall be itemized and shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and shall, upon request, furnish to the claimant the names of repair shops convenient to the claimant that will satisfactorily complete the repairs for the estimated cost, having in mind, particularly, the problems associated with the repair of unibody vehicles.

(6) In first party claim situations, if an insurer elects to exercise a contract right to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.

(7) In any claim situation, an insurer shall make a good faith effort to honor a claimant's request for repairs to be made in a specific repair shop of the claimant's choice, and shall not arbitrarily deny such request. A denial of such a request solely because of the repair shop's hourly rate is arbitrary if such rate does not result in a higher overall cost of repairs. The insurer shall make an appropriate notation in its claim file setting forth the reason it has rejected a claimant's request.

(8) Deductions for betterment and depreciation are permitted only for parts normally subject to repair and replacement during the useful life of the insured motor vehicle. Deductions for betterment and depreciation shall be limited to the lesser of an amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part, or the amount which the resale value of the vehicle is increased by the repair or replacement. Calculations for betterment, depreciation, and normal useful life must be included in the insurer's claim file.) WAC 284-30-390 through 284-30-3916 are the standards for prompt, fair, and equitable settlements for insurance claims relating to vehicles.

NEW SECTION

WAC 284-30-3901 Definitions for settlement of vehicle claims. In addition to the definitions in WAC 284-30-320, the following definitions apply to WAC 284-30-3901 through 284-30-3916.

(1) "Actual cash value" means the cost to you to replace your vehicle with a comparable vehicle.

(2) "Comparable vehicle" means a vehicle that is the same make and model, same or newer year, similar body style, similar options and mileage as your vehicle and in as good or better overall condition as established by current data. To achieve comparability, any deductions or additions for options, mileage or condition can only be made if they are itemized and appropriate in dollar amount. An insurer must consider information supplied by you when determining deductions or additions.

(3) "Current data" means data no older than ninety days from the date of loss.

(4) "Principally garaged" means the zip code where the vehicle is normally kept.

(5) "Settlement" means when the payment is actually made to you and/or your lien holder.

NEW SECTION

WAC 284-30-3902 When my vehicle is repairable, what can I expect from the insurer? (1) The insurer must provide you a copy of the itemized estimate it is using as the basis for payment.

(2) Upon your request, the insurer must provide you names of repair shops within your principally garaged area that will satisfactorily complete the repairs for the estimated cost.

(3) The insurer cannot require you to travel unreasonably to:

- (a) Obtain a repair estimate;
- (b) Have the vehicle repaired at a specific repair shop; or
- (c) Obtain a temporary rental or loaner vehicle.

(4) Deductions for betterment and depreciation may be taken only for parts normally subject to repair and replacement during the useful life of the insured motor vehicle. Deductions for betterment and depreciation are limited to the increase in the actual cash value of the vehicle caused by the replacement of the part, or the amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part, whichever is less.

(5) Your insurer may elect to exercise its right, under the terms of your insurance contract, to repair your vehicle and designate a specific repair shop for your vehicle repairs. In this case, your insurer must restore your vehicle to its condition prior to the loss at no additional cost to you other than as stated in your policy.

NEW SECTION

WAC 284-30-3903 Can I get my vehicle repaired at a shop of my choice? (1) The insurer must make a good faith effort to honor your request for repairs to be made in a specific repair shop and cannot arbitrarily deny your request.

(2) A denial of your request solely because of the repair shop's hourly rate is arbitrary if the rate does not result in a higher overall cost of repairs.

(3) If the overall cost of repairs cannot be agreed upon, the insurer will:

(a) Provide you with the names of reputable repair shops reasonably close to you that can satisfactorily complete the repairs for the amount of their estimate; and

(b) Make an appropriate notation in its claim file setting forth the reason it has rejected your request.

(4) If you choose to take your vehicle to a repair facility in which the overall cost for a satisfactory repair is higher than the insurer's estimate, you may be liable for any additional amount above their estimate.

NEW SECTION

WAC 284-30-3904 Will my insurer pursue collection of my deductible? (1) Yes, if your insurer is pursuing collec-

tion of its interest, you may request they pursue collection of your deductible for you.

(2) Your insurer will inform you of its efforts relative to collection of your deductible.

NEW SECTION

WAC 284-30-3905 If my insurer collects my deductible back, will I recover the full amount of my deductible?

(1) At a minimum, recovery will be shared on a proportionate basis with your insurer.

(2) No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery, and then only for the pro rata share of the allocated loss adjustment expense.

NEW SECTION

WAC 284-30-3906 If another party is responsible for my vehicle damage, can that party's insurer refuse to settle my vehicle damage and force me to use my own collision coverage? When liability and damages are reasonably clear, another party's insurer cannot recommend that you make a claim under your own collision coverage solely to avoid paying the claim.

NEW SECTION

WAC 284-30-3907 How can my insurer settle my vehicle total loss claim? Your insurer can adjust and settle vehicle total losses by one of the following methods:

(1) Replacing your vehicle: Your insurer can settle your claim by offering to replace your vehicle with a comparable vehicle that is available for inspection within a reasonable distance from where your vehicle is principally garaged. Your insurer must advise you by phone or in writing of their settlement offer. This communication must be documented in the claim file. If it is a phone call, the documentation must include the date, time, and name of the person in your household they spoke with.

(2) Cash settlement: Your insurer can settle your claim by offering a cash settlement based on the actual cash value to purchase a comparable vehicle. Only vehicles identified as comparable may be used to arrive at the actual cash value. You can request a copy of the "valuation report" that notes the information used to determine the amount of the cash settlement. The offer of a cash settlement must use one of the following methods:

(a) The actual cash value of a comparable vehicle based on current data obtained from the principally garaged area. If a comparable vehicle cannot be found within the principally garaged area, the search area may be expanded only in increasing circles of twenty-five mile increments until a comparable vehicle is identified.

(b) Quotations for the actual cash value of a comparable vehicle obtained from two or more licensed dealers located within the principally garaged area. If two or more licensed dealers cannot be found within the principally garaged area, the search area may be expanded only in increasing circles of

twenty-five mile increments until two or more quotes for comparable vehicles are obtained.

(c) The actual cash value of two or more comparable vehicles advertised for sale in the local media if the advertisements are no older than ninety days. The vehicle must be located within the principally garaged area. If two or more comparable vehicles cannot be found within the principally garaged area, the search area may be expanded only in increasing circles of twenty-five mile increments until two or more comparable vehicles are identified.

(d) Any source for determining statistically valid actual cash values within your vehicle's principally garaged area that meets all of the following criteria:

(i) The source must give primary consideration to the values of vehicles in the zip code where your vehicle was principally garaged.

(ii) The source's data base must produce values for at least eighty-five percent of all makes and models for a minimum of fifteen years taking into account the values of all major options for such vehicles.

(iii) The source must produce actual cash values based on current data available from the principally garaged area. If comparable vehicles cannot be found within the principally garaged area, the search area may be expanded until comparable vehicles are identified to assure statistical validity.

(iv) The source must rely upon the actual cash value of comparable vehicles that are currently available or were available in the market place within ninety days from the date of loss.

(v) Any adjustments for betterment or depreciation must be in compliance with WAC 284-30-3908.

(vi) The source must provide a list of the comparable vehicles used to determine the actual cash value. If more than thirty comparable vehicles are used, only thirty must be listed.

(e) When you and your insurer both agree, an evaluation that varies from the methods described in (a) through (d) of this subsection may be used. The determination of value must be supported by documentation. Your insurer must take reasonable steps to validate that the value so determined is accurate and representative of what the actual cash value would be of a comparable vehicle in the principally garaged area.

(f) Insurers remain responsible for the accuracy of evaluations based on outside sources used to establish actual cash values.

(3) Appraisal: If you and your insurer fail to agree on the actual cash value of your vehicle and your policy has an appraisal provision, you or your insurer may request that the appraisal provision of your policy be used as a method to resolve disputes concerning the actual cash value.

(4) Applicable taxes, license fees, and other fees incidental to transfer of evidence of ownership must be added to the actual cash value.

NEW SECTION

WAC 284-30-3908 Are there factors that may adjust my settlement? Your settlement may be adjusted by one of the following methods:

(1) Deductions are allowable for prior unrepaired damage. The amount of deduction can be no greater than the decrease in actual cash value due to prior damage.

(2) When you retain your total loss vehicle, your insurer may deduct the salvage value from the actual cash value, including all applicable taxes and fees. At your request, the insurer must provide you with the name and address of a salvage dealer or dismantler who will purchase the salvage for the amount deducted with no additional charge. This option must be available for at least thirty days after receipt of the settlement. This option will not be available if, after settlement, the condition of the salvage has been changed.

(3) Any additions or deductions from the actual cash value must be measurable, discernible, itemized and specified as to dollar amounts.

NEW SECTION

WAC 284-30-3909 If my vehicle is determined to be a total loss, can I keep it? (1) If your claim is being handled by another person's liability insurer, you may negotiate to keep your vehicle.

(2) If your claim is being handled under your insurance policy, it will depend on the terms and conditions in your policy.

NEW SECTION

WAC 284-30-3910 Can the insurer move my vehicle prior to settlement of the claim? Yes, the insurer may move your vehicle with your consent. An insurer may seek to move your vehicle to eliminate additional storage costs. If you do not consent to move your vehicle, you may be held liable for those additional storage costs.

NEW SECTION

WAC 284-30-3911 What information must be included in the insurer's valuation report? The valuation report must include:

(1) All information collected during the initial inspection that sets forth the condition, equipment, and mileage of your vehicle;

(2) All information that the insurer used to arrive at your actual cash value of the vehicle;

(3) A list of the comparable vehicles used by the insurer to arrive at the actual cash value. This list must include:

(a) The source of the information used;

(b) The date of the information;

(c) The seller's telephone number;

(d) The asking price;

(e) The sold price, if the sold price is available and verified;

(f) The location of each vehicle at the time of the valuation.

(g) When an insurer uses a source for determining statistically valid actual cash values meeting the requirements of WAC 284-30-3907 (2)(d), the insurer must give primary consideration to vehicles in the zip code where your vehicle was

principally garaged. If more than thirty comparable vehicles are used, only thirty must be listed.

Any supplemental or ancillary information must be clearly identified with a separate heading. Any weighing of identified vehicles to arrive at an average must be documented and explained.

NEW SECTION

WAC 284-30-3912 What if I, as an insured, accept the settlement based on my insurer's valuation and cannot find a comparable vehicle within a reasonable distance of my vehicle's principally garaged area? (1) When you accept the settlement, your insurer must provide you with written notice regarding reopening of your claim file.

(2) If you notify your insurer within thirty-five days of receipt of the settlement that you cannot purchase a comparable vehicle for the settlement amount and you located, but did not purchase a comparable vehicle that costs more than the settlement amount, your insurer must reopen your claim file and either:

(a) Locate a comparable vehicle that is currently available for the settlement amount;

(b) Pay you the difference between the settlement amount and the cost of the comparable vehicle or purchase the comparable vehicle for you; or

(c) If not previously utilized, conclude the loss settlement in the manner provided in the appraisal section of your insurance policy in force at the time of the loss.

(3) Your insurer is not required to reopen your claim file if:

(a) At the time of settlement, you were provided written notification of the availability and location of a specific and comparable vehicle that could have been purchased for the settlement amount; and

(b) You did not purchase the vehicle within thirty-five days of the receipt of the settlement.

NEW SECTION

WAC 284-30-3913 What must the insurer do prior to the denial of storage and towing costs? The insurer must:

(1) Advise you by phone or in writing before they stop payment for storage of your vehicle. This communication must be documented in the claim file. If it is a phone call, the documentation must include the date, time, name of the person in your household they spoke with, and specifics of the conversation;

(2) Provide reasonable time, in no event greater than five business days, for you to remove your vehicle from storage before stopping payment; and

(3) Pay any and all reasonable towing charges unless otherwise provided in your policy. You may use any towing company unless the insurer provides you with the name of a specific towing company before your vehicle is towed.

PERMANENT

NEW SECTION

WAC 284-30-3914 When I am dealing with someone else's insurer, what are my rights regarding a rental vehicle? In vehicle property damage liability claims in which liability is reasonably clear, the insurer will negotiate the reasonable and necessary costs in direct proportion to the extent of its liability for the rental of another vehicle and may not require you to rent a vehicle to actually cover these costs.

NEW SECTION

WAC 284-30-3915 What if the other person's insurer offers a flat rental amount per day, week, or month? When the insurer offers a flat rental amount per day, week, or month, they must disclose to you where you can obtain a vehicle for the amount of its payment.

NEW SECTION

WAC 284-30-3916 In a total loss situation, what happens if I have a loan or lease on my vehicle and the outstanding balance exceeds the actual cash value of my vehicle? Unless you have purchased auto loan/lease gap coverage, you will be responsible for the difference between the actual cash value of your vehicle and the outstanding balance owing to the lessor or finance company if your vehicle is a total loss. For example, if your vehicle's actual cash value is \$15,000 but you owe \$20,000 to the lessor or finance company, you will be responsible for the extra \$5,000. Your insurer is not required to pay the difference unless you have purchased specific coverage for it, subject to your policy's terms and conditions.

WSR 03-14-106
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
[Filed June 30, 2003, 3:49 p.m.]

Date of Adoption: June 27, 2003.

Purpose: To add the "hold harmless" language from the core provider agreement (CPA), DSHS 09-048, that was inadvertently omitted when the CPA was revised in August 2002. This rule has been in effect since January 8, 2003, as an emergency rule.

Citation of Existing Rules Affected by this Order: Amending WAC 388-502-0010.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.09.080, 74.09.120.

Adopted under notice filed as WSR 03-10-091 on May 6, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-07-076, filed 3/20/01, effective 4/20/01)

WAC 388-502-0010 Payment—Eligible providers defined. The department reimburses enrolled providers for covered medical services, equipment and supplies they provide to eligible clients.

(1) To be eligible for enrollment, a provider must:

(a) Be licensed, certified, accredited, or registered according to Washington state laws and rules; and

(b) Meet the conditions in this chapter and chapters regulating the specific type of provider, program, and/or service.

(2) To enroll, an eligible provider must sign a core provider agreement or a contract with the department and receive a unique provider number. (Note: Section 13 of the core provider agreement, DSHS 09-048 (REV. 06/2002), is hereby rescinded. The department and each provider signing a core provider agreement will hold each other harmless from a legal action based on the negligent actions or omissions of either party under the terms of the agreement.)

(3) Eligible providers listed in this subsection may request enrollment. Out-of-state providers listed in this subsection are subject to conditions in WAC 388-502-0120.

(a) Professionals:

(i) Advanced registered nurse practitioners;

(ii) Anesthesiologists;

(iii) Audiologists;

(iv) Chiropractors;

(v) Dentists;

(vi) Dental hygienists;

(vii) Denturists;

(viii) Dietitians or nutritionists;

~~((xiv))~~ (ix) Maternity case managers;

(x) Midwives;

(xi) Occupational therapists;

(xii) Ophthalmologists;

(xiii) Opticians;

(xiv) Optometrists;

(xv) Orthodontists;

(xvi) Osteopathic physicians;

(xvii) Podiatric physicians;

(xviii) Pharmacists;

(xix) Physicians;

- (xx) Physical therapists;
- (xxi) Psychiatrists;
- (xxii) Psychologists;
- (xxiii) Registered nurse delegators;
- (xxiv) Registered nurse first assistants;
- (xxv) Respiratory therapists;
- (xxvi) Speech/language pathologists;
- (xxvii) Radiologists; and
- (xxviii) Radiology technicians (technical only);
- (b) Agencies, centers and facilities:
 - (i) Adult day health centers;
 - (ii) Ambulance services (ground and air);
 - (iii) Ambulatory surgery centers (Medicare-certified);
 - (iv) Birthing centers (licensed by the department of health);
 - (v) Blood banks;
 - (vi) Chemical dependency treatment facilities certified by the department of social and health services (DSHS) division of alcohol and substance abuse (DASA), and contracted through either:
 - (A) A county under chapter 388-810 WAC; or
 - (B) DASA to provide chemical dependency treatment services;
 - (vii) Centers for the detoxification of acute alcohol or other drug intoxication conditions (certified by DASA);
 - (viii) Community AIDS services alternative agencies;
 - (ix) Community mental health centers;
 - (x) Early and periodic screening, diagnosis, and treatment (EPSDT) clinics;
 - (xi) Family planning clinics;
 - (xii) Federally qualified health care centers (designated by the Federal Health Care Financing Administration);
 - (xiii) Genetic counseling agencies;
 - (xiv) Health departments;
 - (xv) HIV/AIDS case management;
 - (xvi) Home health agencies;
 - (xvii) Hospice agencies;
 - (xviii) Hospitals;
 - (xix) Indian Health Service;
 - (xx) Tribal or urban Indian clinics;
 - (xxi) Inpatient psychiatric facilities;
 - (xxii) Intermediate care facilities for the mentally retarded (ICF-MR);
 - (xxiii) Kidney centers;
 - (xxiv) Laboratories (CLIA certified);
 - (xxv) Maternity support services agencies;
 - (xxvi) Neuromuscular and neurodevelopmental centers;
 - (xxvii) Nursing facilities (approved by DSHS Aging and Adult Services);
 - (xxviii) Pharmacies;
 - (xxix) Private duty nursing agencies;
 - (xxx) Rural health clinics (Medicare-certified);
 - (xxxii) Tribal mental health services (contracted through the DSHS mental health division); and
 - (xxxii) Washington state school districts and educational service districts.
- (c) Suppliers of:
 - (i) Durable and nondurable medical equipment and supplies;
 - (ii) Infusion therapy equipment and supplies;

- (iii) Prosthetics/orthotics;
- (iv) Hearing aids; and
- (v) Oxygen equipment and supplies;
- (d) Contractors of:
 - (i) Transportation brokers;
 - (ii) Interpreter services agencies; and
 - (iii) Eyeglass and contact lens providers.

(4) Nothing in this chapter precludes the department from entering into other forms of written agreements to provide services to eligible clients.

(5) The department does not enroll licensed or unlicensed practitioners who are not specifically addressed in subsection (3) of this section, including, but not limited to:

- (a) Acupuncturists;
- (b) Counselors;
- (c) Sanipractors;
- (d) Naturopaths;
- (e) Homeopaths;
- (f) Herbalists;
- (g) Massage therapists;
- (h) Social workers; or
- (i) Christian Science practitioners or theological healers.

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

WSR 03-14-107
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed June 30, 2003, 3:51 p.m.]

Date of Adoption: June 27, 2003.

Purpose: This rule is amended to add language that had been inadvertently deleted and to add clarifying language in subsection (4).

Citation of Existing Rules Affected by this Order: Amending WAC 388-505-0210.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.04.050.

Adopted under notice filed as WSR 03-10-048 on May 1, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

WAC 388-505-0210 Children's medical eligibility.

(1) A child under the age of one is eligible for categorically needy (CN) medical assistance when:

(a) The child's mother was eligible for and receiving coverage under a medical program at the time of the child's birth; and

(b) The child remains with the mother and resides in the state.

(2) Children under the age of nineteen are eligible for CN medical assistance when they meet the requirements for:

(a) Citizenship or U.S. national status as described in WAC 388-424-0005(1) or immigrant status as described in WAC 388-424-0010 (1) or (2);

(b) State residence as described in chapter 388-468 WAC;

(c) A social security number as described in chapter 388-476 WAC; and

(d) Family income levels as described in WAC 388-478-0075 (1)(c).

(3) Children under the age of nineteen are eligible for the state children's health insurance program (SCHIP), as described in chapter 388-542 WAC, when:

(a) They meet the requirements of subsection (2)(a) ~~((and))~~ (b), and (c) of this section;

(b) They do not have other creditable health insurance coverage; and

(c) Family income exceeds two hundred percent of the federal poverty level (FPL), but does not exceed two hundred fifty percent of the FPL as described in WAC 388-478-0075 (1)(c) and (d).

(4) Children under the age of twenty-one are eligible for CN medical assistance when they meet:

(a) Citizenship or immigrant status, state residence, and social security number requirements as described in subsection (2)(a), (b), and (c) of this section;

(b) Income levels described in WAC 388-478-0075 ~~((when income is counted according to WAC 388-408-0055 (1)(e)))~~; and

(c) One of the following criteria:

(i) Reside, or are expected to reside, in a medical hospital, intermediate care facility for mentally retarded (ICF/MR), or nursing facility for ~~((more than))~~ thirty days or more;

(ii) Reside in a psychiatric or chemical dependency facility for ninety days or more;

(iii) Are in foster care; or

(iv) Receive subsidized adoption services.

(d) For a child meeting the criteria (c)(i) of this subsection, the only parental income the department considers avail-

able to the child is the amount the parent chooses to contribute.

(e) For a child meeting the criteria in (c)(ii) of this subsection, parental income is counted as described in WAC 388-408-0055 (1)(c).

(5) Children are eligible for CN medical assistance if they:

(a) Receive Supplemental Security Income (SSI) payments based upon their own disability; or

(b) Received SSI cash assistance for August 1996, and except for the August 1996 passage of amendments to federal disability definitions, would be eligible for SSI cash assistance.

(6) Children under the age of nineteen are eligible for medically needy (MN) medical assistance as defined in chapter 388-500 WAC when they:

(a) Meet citizenship or immigrant status, state residence, and social security number requirements as described in subsection (2)(a), (b), and (c); and

(b) Have income above the income levels described in WAC 388-478-0075 (1)(c).

(7) A child is eligible for SSI-related MN when the child:

(a) Meets the blind and/or disability criteria of the federal SSI program or the condition in subsection (5)(b); and

(b) Has countable income above the level described in WAC 388-478-0070(1).

(8) There are no resource limits for children under CN, MN, or SCHIP coverage.

(9) Children may also be eligible for:

(a) Family medical as described in WAC 388-505-0220;

or

(b) Medical extensions as described in WAC 388-523-0100.

(10) Except for a client described in subsection (4)(c)(i) and (ii), an inmate of a public institution, as defined in WAC 388-500-0005, is not eligible for CN or MN medical coverage.

WSR 03-14-108

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed June 30, 2003, 3:52 p.m., effective June 30, 2003]

Date of Adoption: June 27, 2003.

Purpose: This rule is amended to delete references to unearned income. Upon adoption, the department will use only earned income to establish premium amounts in the second six months of the medical extension certification period.

Citation of Existing Rules Affected by this Order: Amending WAC 388-523-0120.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: Section 209, chapter 7, Laws of 2001.

Adopted under notice filed as WSR 03-10-089 on May 6, 2003.

Changes Other than Editing from Proposed to Adopted Version: Subsection (5)(e) second sentence, added wording

PERMANENT

about good cause rights; subsection (5)(e), added the word "of" for grammatical accuracy; and subsection (8), cross-reference corrected to "(6)(b)."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: This rule must become effective immediately to prevent imminent harm to the department's low-income clients in need of extensions to their medical coverage. The amended rule removes the requirement to count unearned income. This reduces the amount of premiums charged to clients for receipt of medical coverage. This amendment will improve the client's ability to pay monthly premiums for medical coverage.

Effective Date of Rule: Upon filing [June 30, 2003].

June 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-10-018, filed 4/22/02, effective 5/23/02)

WAC 388-523-0120 Medical extensions—Premiums.

(1) "**Countable income**" means, for the purposes of determining the premium amount described in this chapter, all earned ~~((and unearned))~~ income of the adult family members ~~((except SSI cash assistance))~~, minus the amount of employment-related child care paid for by the family. The earned ~~((and unearned))~~ income of an adult, living in the household, who is financially responsible for other members of the assistance unit is included, whether or not the person is an eligible member of the assistance unit.

(2) ~~((For a family whose first month of medical extension benefits occurs on or after February 2002,))~~ The department requires the family to pay premiums for medical coverage provided during the second six-month medical extension period. The premium amount is one percent of the family's average countable income ~~((per person/per month. This amount is))~~ rounded down to the nearest whole dollar. This whole dollar amount is billed per adult per month. See subsection (3).

(3) The premiums for:

(a) Months seven, eight, and nine are based solely on the average countable income received in months one, two and three of the medical extension period; and

(b) Months ten, eleven, and twelve are based solely on the average countable income received in months four, five, and six of the medical extension period.

(4) A subsequent change in income does not effect the premium amount described in subsection (2) and (3) of this section.

(5) When a family's premium is one month in arrears, the family is ineligible for the balance of the medical extension period unless good cause exists. Reasons for good cause include, but are not limited to:

(a) Illness, mental impairment, injury, trauma, or stress;

(b) Lack of understanding the premium payment requirement due to a language barrier;

(c) Transportation problems;

(d) ~~((The client did not pay))~~ Nonpayment of the premium because ((they)) the client expected to be able to meet the family medical needs, but could not; or

(e) ~~((The client was given))~~ Receipt of incorrect information or ((did not receive)) nonreceipt of advance and adequate notice about the premium payment requirements. ((Refer to)) WAC 388-422-0020 (4) and (5) provisions regarding good cause rights and periodic review apply to good cause for non-payment of premiums.

(6) The department exempts individual family members from ~~((the))~~ premium payment requirements, as follows:

(a) Children;

(b) Pregnant women;

(c) American Indians and Alaska Natives; and

(d) Caretaker adults in a family whose countable income is equal to or less than one hundred percent of the Federal Poverty Level based on family size as described in WAC 388-478-0075(2).

(7) When determining the exemption described in subsection (6)(b), the premium exemption is effective the first of the month following the client's report of the pregnancy to the department.

(8) When determining the exemption described in subsection (6)(d), the department shall include in the household size an unborn child and a person who is financially responsible for other members of the assistance unit, whether or not the person is an eligible member of the assistance unit. A person receiving SSI cash assistance is not included when determining the household size.

~~((8))~~ (9) The department determines a family's exemption from the premium requirement as described in subsection (6)(d) for:

(a) Months seven, eight and nine based solely on information available to the department at the time the premium for these months is calculated; and

(b) Months ten, eleven, and twelve based solely on information available to the department at the time the premium for these months is calculated.

~~((9))~~ (10) Any ~~((income))~~ change resulting in an individual meeting the exemption criteria in subsection (6)(d) after the establishment of the premium amount for months seven, eight and nine is used to calculate the premium amount for months ten, eleven, and twelve. Any change resulting in an individual meeting the exemption criteria in subsection (6)(d) after the establishment of the premium amount for months ten, eleven, and twelve is not used to

recalculate the premium amount for months ten, eleven, and twelve.

WSR 03-14-109
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 30, 2003, 3:55 p.m., effective August 1, 2003]

Date of Adoption: June 27, 2003.

Purpose: The Division of Child Care and Early Learning is adopting new chapter 388-292 WAC to establish the seasonal child care program in Economic Services Administration's WAC and to clarify the existing eligibility criteria, income and copay calculations, rights and responsibilities, authorized services and program guidelines.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-165-130.

Statutory Authority for Adoption: RCW 74.12.340.

Other Authority: Chapter 74.15 RCW.

Adopted under notice filed as WSR 03-09-033 on April 7, 2003.

Changes Other than Editing from Proposed to Adopted Version:

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 35, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 35, Amended 0, Repealed 1.

Effective Date of Rule: August 1, 2003.

June 27, 2003

Brian H. Lindgren, 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 03-15 issue of the Register.

WSR 03-14-110
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 30, 2003, 4:02 p.m., effective August 1, 2003]

Date of Adoption: June 27, 2003.

Purpose: The Department of Social and Health Services, Economic Services Administration (ESA) is repealing all sections of chapter 388-150 WAC, Minimum licensing requirements for child day care centers, and replacing those WAC with new chapter 388-295 WAC, Minimum licensing requirements for child care centers.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-150-005 Authority, 388-150-010 Definitions, 388-150-020 Scope of licensing, 388-150-040 Local ordinances and codes, 388-150-050 Waivers, 388-150-060 Dual licensing, 388-150-070 Application and reapplication for licensing—Investigation, 388-150-080 Licensed capacity, 388-150-085 Initial license, 388-150-090 When can my license application be denied and when can my license be suspended or revoked?, 388-150-092 Civil penalties, 388-150-093 Civil penalties—Amount of penalty, 388-150-094 Civil penalties—Posting of notice of penalty, 388-150-095 Civil penalties—Unlicensed programs, 388-150-096 Civil penalties—Separate violations, 388-150-097 Civil penalties—Penalty for nonpayment, 388-150-098 Probationary license, 388-150-100 Activity program, 388-150-110 Learning and play materials, 388-150-120 Staff-child interactions, 388-150-130 Behavior management and discipline, 388-150-140 Rest periods, 388-150-150 Evening and nighttime care, 388-150-160 Off-site trips, 388-150-165 Transportation, 388-150-170 Parent communication, 388-150-180 Staff pattern and qualifications, 388-150-190 Group size and staff-child ratios, 388-150-200 Staff development and training, 388-150-210 Health care plan, 388-150-220 Health supervision and infectious disease prevention, 388-150-230 Medication management, 388-150-240 Nutrition, 388-150-250

Rule as proposed in WSR 03-01-060	Rule as adopted	Reason
WAC 388-292-0010 (e) A person with parental control as defined in WAC 388-292-005 (1)(c) through (h)	(e) A person with parental control as defined in WAC 388-292-005 (1)(c) through (i)(h)	In response to comments received
WAC 388-292-0075 (2) By writing to the Office of Administrative Hearings, 919 Lakeridge Way S.W., P.O. Box 42488, Olympia, WA 98504-2488 within ninety days of the date any decision of an action is received	(2) By writing to the Office of Administrative Hearings, <u>at the address in WAC 388-02-0025(1) 919 Lakeridge Way SW, PO Box 42488, Olympia, WA 98504-2488</u> within ninety days of the date any decision of an action is received	In response to comments received
WAC 388-292-0060 (4) Have your information held confidentially except when required by federal or state regulations to be shared with other agencies	(4) Have your information held confidentially <u>as required by chapter 42.17 RCW, chapter 388-01 WAC and other applicable state and federal laws, except when required by federal or state regulations to be shared with other agencies</u>	In response to comments received

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.

PERMANENT

Kitchen and food service, 388-150-260 Drinking and eating equipment, 388-150-270 Care of young children, 388-150-280 General safety, maintenance and site, 388-150-290 Water safety, 388-150-295 Water supply, sewage and liquid wastes, 388-150-310 First aid supplies, 388-150-320 Outdoor play area, 388-150-330 Indoor play area, 388-150-340 Toilets, handwashing sinks, and bathing facilities, 388-150-350 Laundry, 388-150-360 Nap and sleep equipment, 388-150-370 Storage, 388-150-380 Program atmosphere, 388-150-390 Discrimination prohibited, 388-150-400 Religious activities, 388-150-410 Special requirements regarding Native American children, 388-150-420 Child abuse, neglect and exploitation, 388-150-430 Prohibited substances, 388-150-440 Limitations on person on premises, 388-150-450 Child records and information, 388-150-460 Program records, 388-150-470 Personnel policies and records, 388-150-480 Reporting of death, injury, illness, epidemic or child abuse, 388-150-490 Reporting of circumstantial changes, 388-150-500 Posting requirements, 388-150-990 Purpose and authority, 388-150-991 Waiver of fees, 388-150-992 Fee payment and refunds, and 388-150-993 Denial, revocation, suspension and reinstatement.

Statutory Authority for Adoption: Chapters 74.12 and 74.15 RCW.

Adopted under notice filed as WSR 03-09-005 on April 2, 2003.

Changes Other than Editing from Proposed to Adopted Version:

SUMMARY OF CHANGES MADE FROM PROPOSED TO ADOPTED VERSION (other than editing)	LANGUAGE CHANGED OR DELETED FROM THE PROPOSED OR ADOPTED VERSION
<p>An addition to WAC 388-295-0001 What gives the authority to the department of social and health services (DSHS) to license child care and charge licensing fees?, was made to make "technical changes." Establishing licensing fees under authority of RCW 43.20.110 had been in the previous WAC but was inadvertently omitted during the revision process. The two changes were: (1) The subsection title question was changed to include "and charge licensing fees." (2) Additional language was added stating the authority to establish licensing fees are adopted under RCW 43.20B.110.</p>	<p>WAC 388-295-0001 title questions now reads as follows: What gives the authority to the department of social and health services (DSHS) to license child care <u>"and charge licensing fees."</u> The language in WAC 388-295-0001(2) has been changed to state: <u>"The rules establishing licensing fees are adopted under authority of RCW 43.20B.110."</u></p>

Two definitions were added to WAC 388-295-0010 What definitions under this chapter apply to licensed child care providers? Definitions were added for "Supervised Access" and "Unsupervised Access" to provide more clarity in interpretation of the rules with regards to who must have a criminal history and background inquiry clearance.

The following language has been added to WAC 388-295-0010: "Supervised access" refers to those individuals at a child care center who have no responsibility for the operation of a center and do not have unsupervised access to children. These individuals are not required to submit a criminal history form. This included those persons on the premises for "time limited" activities whose presence is supervised by a center employee and does not affect provider/child ratios or the normal activities or routine of the center. Examples include: (1) A person hired to present an activity to the children in care such as a puppet show, cooking activity, and story telling; (2) Parent participation as part of a special theme; or (3) A relative visiting a child on the premises. "Unsupervised access" refers to those individuals at a child care center who can be left alone with children in the child care center. These individuals must have received a full criminal history and background authorization clearance."

An addition was made to WAC 388-295-0050 Can I get a waiver (exception) to the minimum licensing requirements?, licensing fee information from the previous WAC was omitted during the revision process. Changes were made to correct the error providing additional information necessary to clarify what a provider must do to obtain a waiver for licensing fees. In addition, sentence rearrangement was made moving subsection (5) to subsection (7) You have no appeal rights to the denial of a waiver request under chapter 34.05 RCW."

The language in WAC 388-295-0050 now includes the following changes: (1) The title has been changed to state: "Can I get a waiver (exception) to the minimum licensing requirements or to licensing fees?" The additional information was also added "(5) Any person or agency can submit a request for a waiver of licensing fees. We may waive fees when collection of the fee would (a) Not be in the best interest of public health and safety; (b) Be to the financial disadvantage of the state. (6) To request a waiver to the requirement to pay a licensing fee, you must: (a) Submit a sworn, notarized petition requesting a waiver of fees; (b) Mail or deliver the petition to your local child care licensing office; and (c) Submit any additional documentation that we may consider relevant to your request for a waiver." Subsection (5) was rearranged to subsection (7) for clarity purposes.

PERMANENT

PERMANENT

<p>Changes were made to WAC 388-295-0055 Can I get a dual license?, as a result of comments made about requesting social security cards for persons other than employees, changes were made to this subsection. The purpose of the Social Security card or verification of employer identification number is to allow us to file correctly with the Internal Revenue Services (IRS). IRS requires us to report monies paid to providers accurately. We can only do so if we have the Social Security card or the employer identification number (EIN) verification. WAC 388-296-0055(4) was deleted and added to WAC 388-295-0070 (2)(a), (b), (c), (d), for clarification purposes.</p>	<p>WAC 388-295-0055 has been changed to read: <u>"(2) The application packet must include the following attachments: (ii) "Social security card that is valid for employment or verification of your employer identification number."</u> The following language was deleted from WAC 388-295-0055 "(4) You must provide us any additional reports or information regarding you, any assistant, volunteers, or any other person having access to the child in care. This includes but is not limited to: (a) Sexual deviancy evaluations; (b) Substance abuse evaluations; (c) Psychiatric evaluations; and medical evaluations."</p>
<p>Changes were made to WAC 388-295-0070 deleting and then rewriting wording as a result of a comment made with regard to submission of additional reports submitted to licensing. Additional background information may be requested when the licensor has substantial information indicating the applicant or provider may have a behavioral or personality problem that could constitute a risk to the health, safety and well-being of children in care. This investigation could include, but is not limited to, accessing criminal histories and law enforcement files and records. Additional background information may be requested when the licensor has substantial information indicating the applicant or provider may have a behavioral or personality problem that could constitute a risk to the health, safety and well-being of children. The licensor must thoroughly discuss with the applicant/licensee the need to obtain additional background information such as a psychiatric, psychological, chemical dependency or other evaluations. Due process dictates that the request for additional information must be logically related to the assumption there is a potential problem constituting a risk to children. Such required information or evaluation must be directly related to the applicant's ability to care for children and a problem that could constitute a risk to children in care.</p>	<p>The language has been reworded and rewritten in WAC 388-295-0070 (1)(b), (2)(a) through (d), what personal characteristics do my volunteers, all staff and I need to provide care to children? and reads as follows: (1) You must have the following personable characteristics in order to operate or work in a child care facility: (b) Be qualified by our background inquiry check (chapter 388-06 WAC) prior to having unsupervised access to children; <u>"This includes your not having committed or been convicted of child abuse or any crime involving harm to another person:"</u> The language has been reworded and rewritten in WAC 388-295-0070 (2)(a) through (d), what personal characteristics do my volunteers, all staff and I need to provide care to children? <u>"If we decide it is necessary, you must provide to us any additional reports or information regarding you, any assistants, volunteers, members of your household or any other person having access to the child in care if any of those individuals may be unable to meet the requirements in Chapter 388-295 WAC. This could include: (a) Sexual deviancy evaluations; (b) Substance abuse evaluations; (c) Psychiatric evaluations; and (d) Medical evaluations."</u></p>

<p>An addition to WAC 388-295-0090 When will the department issue me an initial license?, was made to make "technical changes" to include information on when licensing fees are due. This information was in the previous WAC but was inadvertently omitted during the revision process. These changes were necessary to inform licensees when and how to pay their licensing fees.</p>	<p>The following language was added to WAC 388-296-0090: <u>"(8) You must pay licensing fees at the time you apply for an initial license and when your license is being renewed. (9) We do not process your application until you have paid the required fee. (10) You can pay licensing fees for: (a) A minimum one year; or (b) The entire length of your license. (11) You pay your fee by mailing a check or money order for the required amount to the department of social and health services according to instructions on the licensing application. (12) If you pay your fee one time per year, you pay the annual rate each time. The annual fee is due thirty days before each anniversary date of the license. (13) If you pay for more than one year, the total fee you pay is based on the annual fee rate. For example, if you are licensed for three years and want to pay the licensing fee for the entire period at once, you multiply the annual fee by three years, and pay that amount at the time of your license application or renewal. (14) If there is a change in your facility that places your facility in a higher fee category, we prorate the additional fee amount over the remainder of the license period. (15) If you withdraw your application before we deny or issue a license, we refund one-half of the fee. (16) If there is a change that requires a new license, we refund any fee that remains after the next licensing date. A new license requires a new application and date. (17) If we deny, revoke, or suspend your license, we do not refund your licensing fee. (18) If you reapply for a license after we revoke or suspend your license, you must pay a new license fee. (19) If you do not pay licensing fees when they are due, we suspend or deny your license."</u></p>
<p>A subsection was deleted from WAC 388-295-0110 When can I be fined for not following the minimum licensing requirements?, because the information was duplicated in WAC 388-295-0120.</p>	<p>The following language was deleted in WAC 388-295-0110: "(8) Civil fines are set at two hundred fifty dollars per violation per day. We can assess and collect the fine with interest for each day that you fail to come into compliance."</p>

PERMANENT

<p>A change was made to WAC 388-295-1020 What if the director does not meet the minimum qualifications?, was made as a result of a response to a comment. The change was necessary to provide documentation of the program supervisor twenty hour on-site requirement if the director does not meet the minimum qualifications.</p>	<p>The following language was added to WAC 388-295-1020 (1)(c) <u>"If we request it, you must provide documentation of the twenty hours or more a week on site supervisory duties for the program supervisor."</u></p>
<p>Changes were made to WAC 388-295-1070 What continuing state training and registry system (STARS) training is required for child care center staff?, the two changes were as follows: (1) The previous WAC require the director and the program supervisor to have required STARS training and the program supervisor requirement was inadvertently omitted during the revision process. This change was as the result of a response to comments made about the WAC revision. (2) Language was also added clarifying how many clock hours of training must be obtained from training offered in the community and how many clock hours approved agencies or organizations can offer their staff.</p>	<p>The following language was added to WAC 388-295-1070: (2) The director and <u>"program supervisor"</u> must have five of the ten hours in program management and administration for the first two years in the director position. Each additional year, three of the ten hours required must be in program management and administration. <u>"(3) Agencies or organizations that have been approved by the Washington State Training And Registry System (STARS) may offer up to six clock hours of continuing education each year to their employees. The remaining four hours must be obtained from other training offered in the community."</u></p>
<p>As a result of a response to a comment language limiting time in swings, exercisers, and other confining equipment was deleted from WAC 388-295-2120 Are there special program requirements for infants and toddlers?</p>	<p>The following language was deleted from WAC 388-295-2120: <u>"You must not place them in swings, exercisers and other confining equipment for more than fifteen minutes every four hours; and"</u></p>
<p>A change was made in WAC 388-295-4020 (2)(a)-(d) How do we meet the nutritional needs of infants in our care?, to further clarify nutritional requirements around infant feeding.</p>	<p>The following language was added to the chart in WAC 388-295-4020 (2)(a) through (d) under type of feeding: <u>"Serve only formula or breast milk unless you have a written order from the child's health care provider."</u></p>
<p>As a result of a response to a comment a deletion was made to WAC 388-295-4120 What must I do to be sure that diaper changing is safe and does not spread infection?, and language was added to ensure that diaper changing does not spread infection.</p>	<p>The following language was deleted from WAC 388-295-4120 (6)(a) <u>"Individually bagged and placed into a cleanable, covered container equipped with a water proof liner;"</u> and the following language was added: <u>"Placed into a covered, plastic-lined, hands free covered container."</u></p>
<p>As a result of a response to a comment language was added to WAC 388-295-5170 Can we have animals at the center?, limiting the age children are able to handle reptiles. Amphibians were also added to this category for additional clarity to ensure health and safety of children and disease control.</p>	<p>The following language was added to WAC 388-295-5170(3): Reptiles <u>"and amphibians"</u> must be in an aquarium and other totally self-contained area except during educational activities involving the reptile <u>"and amphibian. Children five years of age or less must not physically handle reptiles and amphibians."</u></p>

<p>A change was made to WAC 388-295-7030 What type of attendance records do I have to keep?, to further explain daily attendance records and expectations around signing-in upon arrival and out upon departure from the center. This change was necessary to ensure accuracy in attendance record keeping.</p>	<p>The following language change was made to WAC 388-295-7030(1) The parent or other person authorized by the parent to take the child to and from the center must sign in the child on arrival and sign out the child at departure, using <u>"their"</u> full legal signature <u>"and writing the time of arrival and departure."</u></p>
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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 109, Amended 0, Repealed 63.

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 109, Amended 0, Repealed 63.

Effective Date of Rule: August 1, 2003.

June 27, 2003

Brian H. Lindgren, 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 03-16 issue of the Register.

**WSR 03-14-114
PERMANENT RULES
STATE BOARD OF EDUCATION**

[Filed June 30, 2003, 4:37 p.m.]

Date of Adoption: June 20, 2003.

Purpose: To amend the rules to allow teachers with a valid national board teaching certificate to have the endorsements on that certificate placed on their Washington certificate if we have a comparable endorsement in Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 180-82-204 and 180-82A-204.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 03-09-024 on April 7, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 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.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 01-13-108, filed 6/20/01, effective 7/21/01)

WAC 180-82-204 Endorsement requirements. (1) Candidates for all primary teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (See WAC 180-78A-264(5)) and field experience/internship (See WAC 180-78A-264(7)).

(2) Candidates for all supporting teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which shall include methodology (see WAC 180-78A-264(5)). The requirement for field experience/internship for a supporting endorsement shall be at the discretion of the college/university: Provided, That in cases where programs require a field experience/internship the colleges and universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's existing schedule.

(3) Teachers may add an endorsement by achieving National Board certification in a Washington teaching endorsement area and possessing a valid National Board certificate.

(4) The state board of education shall approve teacher preparation programs for each endorsement program at Washington colleges and universities, pursuant to chapter 180-78A WAC.

~~((4))~~ (5) Candidates from out-of-state shall be required to present verification that they completed a state-approved program in a Washington endorsement area, except as otherwise provided in WAC 180-79A-257 (1)(d).

~~((5))~~ (6) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

~~((6))~~ (7) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

~~((7))~~ (8) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-204 Endorsement requirements. (1) Candidates completing endorsements required to obtain a residency certificate, shall complete college/university teacher preparation programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (see WAC 180-78A-264(5)) and field experience/internship (see WAC 180-78A-264(6)) and pursuant to endorsement program approval requirements in this chapter.

(2) In order to add an additional endorsement, the candidate shall:

(a) Have completed a state-approved endorsement program which includes methodology (see WAC 180-78A-264(5)) and addresses all endorsement-specific competencies adopted by the state board of education and published by the superintendent of public instruction. The requirement for field experience shall be at the discretion of the college/university. Provided, that in cases where programs require a field experience/internship, the colleges/universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's teaching schedule; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate.

(3) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(6) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

WSR 03-14-115

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:37 p.m.]

Date of Adoption: June 20, 2003.

Purpose: To readopt State Board of Education policy: WAC 180-79A-231 Limited certificates.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-231.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 03-09-023 on April 7, 2003.

Changes Other than Editing from Proposed to Adopted Version: Note board adopted amendments to WAC 180-79A-231 (1)(c)(iv), (v), (vi) and (vii) on language below.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-13-027, filed 6/12/02, effective 7/13/02)

WAC 180-79A-231 Limited certificates. Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) The purpose of the conditional certificate is to assist local school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals. The state board of education encourages in all cases the hiring of fully certificated individuals and understands that districts will employ individuals with conditional certificates only after careful review of all other options. The state board of education asks districts when reviewing such individuals for employment to consider, in particular, previous experience the individual has had working with children.

(b) Conditional certificates are issued upon application by the local school district, approved private school, or educational service district superintendent to persons who meet the age, good moral character, and personal fitness requirements of WAC 180-79A-150 (1) and (2), if one of the following conditions is verified:

(i) The applicant is highly qualified and experienced in the subject matter to be taught and has unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and/or awards; or

(ii) No person with regular teacher certification in the endorsement area is available as verified by the district or educational service district superintendent or approved pri-

ate school administrator, or circumstances warrant consideration of issuance of a conditional certificate.

(c) In addition, conditional certificates are issued to persons in the following categories only if no person with regular certification is available:

(i) The applicant qualifies to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(ii) The applicant is assigned instructional responsibility for intramural/interscholastic activities which are part of the district or approved private school approved program; or

(iii) The applicant possesses a state of Washington license for a registered nurse: Provided, That the district will be responsible for orienting and preparing individuals for their assignment as described in (e)(iii) of this subsection; or

(iv) ~~((The applicant has completed a baccalaureate degree level school speech pathologist or audiologist certification preparation program, who were eligible for certification at the time of program completion and who have served in the role for three of the last seven years.))~~ The applicant has completed a bachelor's degree or higher from a regionally accredited college/university. All speech-language pathologists or audiologists providing services under a current and valid conditional certificate issued as of June 30, 2003, will be fully qualified consistent with WAC 180-79A-223 by the year 2010. First conditional certificates, issued to speech-language pathologists or audiologists after June 30, 2003, which are valid for up to two years, may be reissued once for up to two years, if the individual provides evidence that he/she is enrolled in and completing satisfactory progress in a master's degree program resulting in the initial ESA school speech-language pathologists or audiologist certificate.

(v) The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from a regionally accredited college/university.

(vi) The issuance of a conditional certificate to a special education teacher after July 1, 2003, is contingent upon the individual being enrolled in an approved teacher preparation program resulting in a residency teacher certificate endorsed in special education. The conditional certificate is valid for up to two years and may be reissued once for one year upon verification by the college/university that the individual is completing satisfactory progress in the residency teacher certificate program.

(vii) An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(d) The educational service district or local district superintendent or administrator of an approved private school will verify that the following criteria have been met when requesting the conditional certificate:

(i) The district or educational service district superintendent or approved private school administrator has indicated the basis on which he/she has determined that the individual is competent for the assignment;

(ii) The individual is being certificated for a specific assignment and responsibility in a specified activity/field;

(e) When requesting the conditional certificate for persons who provide classroom instruction, the educational service district superintendent or local district superintendent or approved private school administrator will verify that the following additional criteria will be met:

(i) After specific inclusion on the agenda, the school board or educational service district board has authorized submission of the application.

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district or approved private school mentor and will not be serving in a paraprofessional role which would not require certification;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district or approved private school. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iv) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district or approved private school.

(f) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two-year intervals thereafter upon application by the employing local school district, approved private school, or educational service district and upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate. The requesting local school district, approved private school, or educational service district shall verify that the sixty clock hours taken for the reissuance of the certificate shall be designed to support the participant's professional growth and enhance the participant's instructional knowledge or skills to better assist students meeting the state learning goals and/or essential academic learning requirements.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of regular Washington certificates have expired; or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at regionally accredited colleges and universities for certificates; or

(iii) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 180-79A-257 (1)(c) and (d).

(b) The substitute certificate is valid for life.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents or approved private school administrators to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: Provided, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: Provided further, That a candidate for emergency certification as a school counselor, school psychologist, or social worker shall be the best qualified of the candidates for the position as verified by the employing school district and shall have completed all course work for the required master's degree with the exception of the internship: Provided further, That a candidate for emergency certification as a school psychologist shall be enrolled in an approved school psychologist preparation program and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

(4) Emergency substitute certification.

(a) If the district or approved private school has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under subsection (2) of this section for use in a particular school district or approved private school once the list of otherwise qualified substitutes has been exhausted.

(b) Such emergency substitute certificates shall be valid for three years or less, as evidenced by the expiration date which is printed on the certificate.

(5) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 180-79A-270 and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

(6) Intern substitute teacher certificate.

(a) School districts and approved private schools may request intern substitute teacher certificates for persons enrolled in student teaching/internships to serve as substitute teachers in the absence of the classroom teacher.

(b) The supervising college or university must approve the candidate for the intern substitute teacher certificate.

(c) Such certificated substitutes may be called at the discretion of the school district or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher/intern.

(d) The intern substitute teacher certificate is valid for one year, or less, as evidenced by the expiration date which is printed on the certificate.

(7) Transitional certificate.

(a) A teacher whose continuing certificate has lapsed according to WAC 180-85-040 may be issued a transitional certificate to be employed on a conditional basis upon request by a school district, approved private school, or educational service district superintendent. The holder of the transitional

certificate must complete any continuing certificate reinstatement requirements established by the state board of education within two years of the date the holder was issued the transitional certificate in order to continue to be employed. The transitional certificate expiration date shall not be calculated under state board policy WAC 180-79A-117.

(b) No teacher whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(c) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of assistance to be sure the holder completes the necessary continuing certificate reinstatement requirements under WAC 180-85-130 within the two-year conditional employment period specified under (a) of this subsection if the holder is to continue to be employed.

(d) The transitional certificate is not renewable.

WSR 03-14-118

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:41 p.m.]

Date of Adoption: June 20, 2003.

Purpose: To amend State Board of Education policy, WAC 180-51-063.

Citation of Existing Rules Affected by this Order: Amending 180-51-063 [(2)](g).

Statutory Authority for Adoption: RCW 28A.230.090.

Adopted under notice filed as WSR 03-09-028 on April 7, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 01-13-113, filed 6/20/01, effective 7/21/01)

WAC 180-51-063 Certificate of mastery—High school graduation requirement—Effective date. (1) Pursuant to RCW 28A.655.060 (3)(c):

(a) The certificate of mastery shall be a graduation requirement, but not the only requirement for graduation from high school; and

(b) The state board of education is responsible for determining when the secondary Washington assessment of student learning has been implemented and is sufficiently valid and reliable.

(2)(a) The state board of education establishes the 2007-08 school year as the first year in which graduating high school students shall be required to have attained the state certificate of mastery in order to graduate, in addition to other state and local graduation requirements.

(b) The state board of education fully recognizes that a higher standard of validity and reliability must be applied when the result of the assessment affects the ability of an individual student to receive a high school diploma. Therefore, the state board of education will continue to monitor the high school level Washington assessment of student learning. If the board finds that the assessment is lacking in this higher level of validity or reliability, or both, by the beginning of the 2004-05 school year, the state board may change the effective date of the certificate of mastery, for state graduation purposes, to a later school year.

(c) Beginning the 2007-08 school year, the certificate of mastery shall consist of the subject areas under the student learning goals for which a Washington assessment of student learning secondary assessment has been implemented and declared valid and reliable for graduation purposes. It is expected that the initial certificate of mastery will be comprised of reading, writing, communications, and mathematics.

(d) Beginning the 2009-10 school year, the certificate of mastery shall include science if a Washington assessment of student learning secondary assessment has been implemented and declared valid and reliable for this subject area.

(e) As determined by the state board of education, in consultation with the legislature and the academic achievement and accountability commission, successful completion of the Washington assessment of student learning secondary assessment in social studies may be required to achieve the certificate of mastery or may lead to an endorsement on the high school transcript.

(f) As determined by the state board of education, in consultation with the legislature and the academic achievement and accountability commission, successful completion of the Washington assessment of student learning secondary assessment in arts and health and fitness may lead to an endorsement on the high school transcript.

(g) ~~(Effective with students who begin the ninth grade in 2003 (the graduating class of 2007), students who take the secondary Washington assessment of student learning and earn the certificate of mastery and/or meet the standard, attainment of the state certificate of mastery and/or meeting the standard shall be noted on the student's transcript pursu-~~

PERMANENT

~~ant to WAC 180-57-070.)~~ At such time as the state board of education determines that the high school Washington assessments of student learning are sufficiently reliable and valid and that retake opportunities are available, the transcript shall then include notation that the student has met or exceeded (noting the month and year) or not met the standard on each of the required secondary Washington assessments of student learning and/or earned (noting the month and year) or not earned the state certificate of mastery, or that the particular Washington assessment of student learning was waived or not taken. For purposes of this subsection, "exceeded" shall mean the performance standard on each of the required high school Washington assessments of student learning as determined by the superintendent of public instruction.

(3) Notwithstanding WAC 180-18-055 and 180-51-107, subsection (2) of this section shall not be waived.

(4) The certificate of mastery shall not be a graduation requirement for students who receive home-based instruction under RCW 28A.200.101(3) nor for students attending private schools under RCW 28A.195.010(6).

WSR 03-14-119
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:42 p.m.]

Date of Adoption: June 20, 2003.

Purpose: To amend State Board of Education policy, WAC 180-77-068.

Citation of Existing Rules Affected by this Order: Amending WAC 180-77-068.

Statutory Authority for Adoption: RCW 28A.410.010 and 28A.305.130 (1) through (4).

Adopted under notice filed as WSR 03-10-070 on May 6, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 30, 2003
 Larry Davis
 Executive Director

AMENDATORY SECTION (Amending WSR 02-04-018, filed 1/24/02, effective 2/24/02)

WAC 180-77-068 Requirements for coordinator of work-based learning initial or continuing certificates. To obtain a coordinator of work-based learning certificate, a candidate must:

(1) Possess a valid initial or continuing career and technical education teaching certificate; and

(2) ~~((Have completed five hundred hours of occupational experience within the past six years; and~~

~~(3) Have completed an approved course in coordination techniques;))~~ Successfully demonstrate competencies related to coordination techniques as verified by a state board of education approved program.

WSR 03-14-120
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:42 p.m.]

Date of Adoption: June 20, 2003.

Purpose: To amend State Board of Education policy, WAC 180-79A-117 Uniform expiration date.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-117.

Statutory Authority for Adoption: RCW 28A.410.010 and 28A.305.130 (1) through (4).

Adopted under notice filed as WSR 03-09-029 on April 7, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 30, 2003
 Larry Davis
 Executive Director

AMENDATORY SECTION (Amending WSR 02-04-018, filed 1/24/02, effective 2/24/02)

WAC 180-79A-117 Uniform expiration date. (1) All certificates issued for one or more stated years shall expire on June 30 of the stated year and shall be calculated as follows:

(a) Certificates issued prior to June 30 of a calendar year, other than limited certificates issued pursuant to WAC 180-79A-231, shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30 of the same calendar year regardless of the date of issuance.

(b) Certificates issued July 1 or later in the calendar year, other than limited certificates issued pursuant to WAC 180-79A-231, shall have the expiration date of the certificate calculated on the basis such certificate was issued on June 30 of the next calendar year regardless of the date of issuance.

(c) All valid existing certificates scheduled to expire on August 31 of a given year shall be valid until June 30 of the following year.

(2) An applicant who holds a valid certificate, who submits an application for further certification prior to the expiration date of that certificate, and who meets all the requirements of WAC 180-79A-128, shall be granted a one hundred eighty-day permit as provided in chapter 180-79A WAC.

(3) Any educator who is called up to active duty by one of the U.S. military branches shall be granted an extension of the expiration date of his/her certificate. The extension shall be equal to the length of active duty service calculated to the next uniform expiration date.

WSR 03-14-122

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:45 p.m.]

Date of Adoption: June 20, 2003.

Purpose: Amendments to these rules will revise the manner in which colleges and universities complete and submit their competency passed endorsement programs to the State Board of Education for approval.

Citation of Existing Rules Affected by this Order: Amending WAC 180-82A-206 and 180-82A-215.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 03-09-026 on April 7, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 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.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-206 Endorsement program approval.

(1) The state board of education shall approve endorsement programs at Washington colleges and universities pursuant to the requirements of this chapter. Only colleges and universities with state board of education approved residency certificate teacher preparation programs are eligible to apply for approval to offer endorsement programs.

(2) The state board of education will establish performance/competency criteria for obtaining an endorsement. Revision in adopted endorsement competencies may occur only as approved by the state board.

(3) The superintendent of public instruction will publish, and make available, competencies for all endorsement areas identified in chapter 180-82A WAC.

(4) ~~By August 31, 2003, each college or university desiring to establish an endorsement program shall ((empty with the following:~~

~~((a) Identification of opportunities for candidate to develop the capacity to demonstrate each competency;~~

~~((b))) submit a timeline to meet the following requirements for full approval by August 31, 2004:~~

~~((a) Identification of strategies that will be used to assess candidates' capacity/performance ((on each competency)) related to the competencies;~~

~~((e))) ((b) A description of evidences that candidates will provide to document ((candidates' their positive impact on student learning in the ((respective)) endorsement area; and~~

~~((d))) ((c) A description of the ((process)) assessment system by which ((summaries of candidates' assessment data, relative to performance on each competency, will be compiled)) candidate performance, relative to the competencies, will be aggregated, analyzed, and used for program improvement.~~

(5) The state board of education shall approve endorsement programs for a maximum of five years. Each institution shall submit endorsement programs for review when requested by the state board of education to ensure that the endorsement programs meet the competencies and to provide assessment data relative to candidate performance.

(6) The state board of education shall determine the schedule and process for endorsement program reviews.

AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

WAC 180-82A-215 Implementation policies. (1) In order to offer an endorsement program after August 31, 2003, the timeline by which the colleges and universities will be in full compliance with the approval standards in this chapter shall be reviewed and approved. In order to offer an endorsement program after August 31, ~~((2003))~~ 2004, the endorse-

ment program shall be reviewed and approved under the approval standards of this chapter. All teachers who obtain endorsements after September 1, 2003, shall meet the requirements in this chapter. Provided, that colleges and universities may permit an individual enrolled in programs in Washington state (~~on or before September 1, 2003,~~) to obtain endorsements under the requirements in chapter 180-82 WAC, if the individual completes the endorsement program on, or before August 31, 2005, and the college or university verifies endorsement program completion on or before December 31, 2005. Provided further, that the state board of education or its designee may waive this requirement on a case-by-case basis.

(2) Teachers shall be required to obtain a minimum of one endorsement.

WSR 03-14-129

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 02-14—Filed July 1, 2003, 10:15 a.m.]

Date of Adoption: June 30, 2003.

Purpose: This rule making adopts amendments to chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington. This adoption will revise the surface water quality standards by:

- Moving from the current class-based system to a use-based system for designating beneficial uses of waters (for example swimming and aquatic life habitat).
- Making changes to the criteria (for example temperature and bacteria) established to protect designated uses.
- Providing more clarity and detail on implementing the regulation, including the state's antidegradation policy.
- Organizing the structure and sections of the regulation to make it easier to use.

Citation of Existing Rules Affected by this Order: Amending chapter 173-201A WAC.

Statutory Authority for Adoption: Chapters 90.48 and 90.54 RCW.

Adopted under notice filed as WSR 03-01-124 on December 19, 2002, and a supplemental filing on WSR 03-04-082 on February 3, 2003.

Changes Other than Editing from Proposed to Adopted Version: Additional details on any changes other than editing from proposed to adopted version of this chapter can be found in the concise explanatory statement that was prepared to meet the requirements in the APA (RCW 34.05.325). Copies can be obtained by visiting the following website: <http://www.ecy.wa.gov/programs/wq/swqs/index.html> or by contacting Andrew Kolosseus by phone (360) 407-7543 or by e-mail akol461@ecy.wa.gov.

- Made editorial and clarification corrections based on public comment throughout the document.
- Changed char year round protection from 13°C to 12°C.

- Divided the salmon and trout category into "core" (16°C) and "noncore" (17.5°C) to maintain similar system as the current standards and to better match recent EPA guidance.
- Added narrative language to protect char and salmon spawning in streams where the single year round criteria would be unlikely to protect spawning. This language includes temperature criteria of 9°C for char and 13°C for salmon spawning.
- To protect all existing nondesignated uses as well as the downstream designated uses language was added that clarifies the criteria for the most upstream designated uses is to be applied to the headwaters. Thus the criteria for a designated use may apply above locations where that use does not physically occur. This maintains the system of protection that currently exists in the state standards.
- Deleted proposed changes associated with dissolved oxygen numeric criteria.
- Deleted proposed numeric criteria associated with the agricultural water supply use.
- Deleted proposed numeric criteria changes to bacteria for fresh water and for most of the state's marine waters.
- Added language to make it clear that enterococci as an indicator in marine waters is only applied in secondary contact waters and where shellfish is not a protected beneficial use.
- Added use descriptions for waterbodies protected by current bacteria criteria. In order to keep the existing Class AA criteria for bacteria and also make the conversion to a use based format, we developed language for a use that provided higher protection than primary contact.
- Reorganized the section on natural conditions to make it clear how determinations of natural condition work with the antidegradation and incremental allowance parts of the rule.
- Based on comments on the antidegradation part of the rule, added another option to protect outstanding resource waters that allows de minimis pollution from well controlled activities.
- Made the table in WAC 173-201A-602 much more explicit about all the designated uses that must be protected.
- Specifically included boating, aesthetics, and fish migration as designated uses as is currently the case in the existing rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 10, Amended 0, Repealed 7; Federal Rules or Standards: New 6, Amended 1, Repealed 4; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 12, Amended 3, Repealed 6.

Number of Sections Adopted on the Agency's Own Initiative: New 15, Amended 2, Repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 15, Amended 8, Repealed 7.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: These rules will be effective under state law thirty-one days after filing. After adoption, ecology is required to submit the rule to the United States Environmental Protection Agency (EPA) for approval under the Clean Water Act. They have sixty days to approve or ninety days to disapprove. In order to approve EPA must send a biological assessment on Washington's rules to the federal fish agencies. The federal fish agencies will need to concur with EPA on whether or not the rule meets the Endangered Species Act (ESA). The federal approval and consultation process could take up to six months. These adopted rules can not be used for federal Clean Water Act actions until the approval process is complete.

Effective Date of Rule: Thirty-one days after filing.

June 30, 2003

Tom Fitzsimmons

Director

PART I - INTRODUCTION

AMENDATORY SECTION (Amending Order 92-29, filed 11/25/92, effective 12/26/92)

WAC 173-201A-010 (~~(Introduction.)~~) **Purpose.** (1) The purpose of this chapter is to establish water quality standards for surface waters of the state of Washington consistent with public health and public enjoyment (~~(thereof)~~) of the waters and the propagation and protection of fish, shellfish, and wildlife, pursuant to the provisions of chapter 90.48 RCW (and the policies and purposes thereof). All actions must comply with this chapter. As part of this chapter:

(a) All surface waters are protected by narrative criteria, designated uses, and an antidegradation policy.

(b) Based on the use designations, numeric and narrative criteria are assigned to a water body to protect the existing and designated uses.

(c) Where multiple criteria for the same water quality parameter are assigned to a water body to protect different uses, the most stringent criteria for each parameter is to be applied.

(2) Surface waters of the state include lakes, rivers, ponds, streams, inland waters, saltwaters, wetlands, and all other surface waters and water courses within the jurisdiction of the state of Washington.

~~((2))~~ (3) This chapter (~~(shall)~~) will be reviewed periodically by the department and appropriate revisions (~~(shall)~~) will be undertaken.

~~((3) The water use and quality criteria set forth in WAC 173-201A-030 through 173-201A-140 are established in conformance with present and potential water uses of the surface waters of the state of Washington and in consideration of the natural water quality potential and limitations of the same. Compliance with the surface water quality standards of the~~

~~state of Washington require compliance with chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington, and chapter 173-204 WAC, Sediment management standards.)~~ (4) WAC 173-201A-200 through 173-201A-260 describe the designated water uses and criteria for the state of Washington. These criteria were established based on existing and potential water uses of the surface waters of the state. Consideration was also given to both the natural water quality potential and its limitations. Compliance with the surface water quality standards of the state of Washington requires compliance with chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington, chapter 173-204 WAC, Sediment management standards, and applicable federal rules.

AMENDATORY SECTION (Amending Order 94-19, filed 11/18/97, effective 12/19/97)

WAC 173-201A-020 Definitions. The following definitions are intended to facilitate the use of chapter 173-201A WAC:

"1-DMax" or "1-day maximum temperature" is the highest water temperature reached on any given day. This measure can be obtained using calibrated maximum/minimum thermometers or continuous monitoring probes having sampling intervals of thirty minutes or less.

"7-DADMax" or "7-day average of the daily maximum temperatures" is the arithmetic average of seven consecutive measures of daily maximum temperatures. The 7-DADMax for any individual day is calculated by averaging that day's daily maximum temperature with the daily maximum temperatures of the three days prior and the three days after that date.

"Action value" means a total phosphorus (TP) value established at the upper limit of the trophic states in each ecoregion. Exceedance of an action value indicates that a problem is suspected. A lake-specific study may be needed to confirm if a nutrient problem exists.

"Actions" refers broadly to any human projects or activities.

"Acute conditions" are changes in the physical, chemical, or biologic environment which are expected or demonstrated to result in injury or death to an organism as a result of short-term exposure to the substance or detrimental environmental condition.

"AKART" is an acronym for "all known, available, and reasonable methods of prevention, control, and treatment." AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term "best management practices," typically applied to nonpoint source pollution controls is considered a subset of the AKART requirement. ("The Stormwater Management Manual for the Puget Sound Basin" (1992), may be used as a guideline, to the extent appropriate, for developing best management practices to apply AKART for storm water discharges.)

"Background ((conditions))" means the biological, chemical, and physical conditions of a water body, outside the area of influence of the discharge under consideration. Background sampling locations in an enforcement action would be up-gradient or outside the area of influence of the discharge. If several discharges to any water body exist, and enforcement action is being taken for possible violations to the standards, background sampling would be undertaken immediately up-gradient from each discharge. (~~When assessing background conditions in the headwaters of a disturbed watershed it may be necessary to use the background conditions of a neighboring or similar watershed as the reference conditions.~~)

"Best management practices (BMP)" means physical, structural, and/or managerial practices approved by the department that, when used singularly or in combination, prevent or reduce pollutant discharges.

"Biological assessment" is an evaluation of the biological condition of a water body using surveys of aquatic community structure and function and other direct measurements of resident biota in surface waters.

"Bog" means those wetlands that are acidic, peat forming, and whose primary water source is precipitation, with little, if any, outflow.

"Carcinogen" means any substance or agent that produces or tends to produce cancer in humans. For implementation of this chapter, the term carcinogen will apply to substances on the United States Environmental Protection Agency lists of A (known human) and B (probable human) carcinogens, and any substance which causes a significant increased incidence of benign or malignant tumors in a single, well conducted animal bioassay, consistent with the weight of evidence approach specified in the United States Environmental Protection Agency's Guidelines for Carcinogenic Risk Assessment as set forth in 51 FR 33992 et seq. as presently published or as subsequently amended or republished.

"Chronic conditions" are changes in the physical, chemical, or biologic environment which are expected or demonstrated to result in injury or death to an organism as a result of repeated or constant exposure over an extended period of time to a substance or detrimental environmental condition.

"Created wetlands" means those wetlands intentionally created from nonwetland sites to produce or replace natural wetland habitat.

"Critical condition" is when the physical, chemical, and biological characteristics of the receiving water environment interact with the effluent to produce the greatest potential adverse impact on aquatic biota and existing or (~~characteristic~~) designated water uses. For steady-state discharges to riverine systems the critical condition may be assumed to be equal to the 7Q10 flow event unless determined otherwise by the department.

"Damage to the ecosystem" means any demonstrated or predicted stress to aquatic or terrestrial organisms or communities of organisms which the department reasonably concludes may interfere in the health or survival success or natural structure of such populations. This stress may be due to,

but is not limited to, alteration in habitat or changes in water temperature, chemistry, or turbidity, and shall consider the potential build up of discharge constituents or temporal increases in habitat alteration which may create such stress in the long term.

"Department" means the state of Washington department of ecology.

"Designated uses" are those uses specified in this chapter for each water body or segment, regardless of whether or not the uses are currently attained.

"Director" means the director of the state of Washington department of ecology.

"Drainage ditch" means that portion of a designed and constructed conveyance system that serves the purpose of transporting surplus water; this may include natural water courses or channels incorporated in the system design, but does not include the area adjacent to the water course or channel.

"Ecoregions" are defined using EPAs *Ecoregions of the Pacific Northwest* Document No. 600/3-86/033 July 1986 by Omernik and Gallant.

"Enterococci" refers to a subgroup of the fecal streptococci that includes *S. faecalis*, *S. faecium*, *S. gallinarum*, and *S. avium*. The enterococci are differentiated from other streptococci by their ability to grow in 6.5% sodium chloride, at pH 9.6, and at 10°C and 45°C.

"E. coli" or "*Escherichia coli*" is an aerobic and facultative gram negative nonspore forming rod shaped bacterium that can grow at 44.5 degrees Celsius that is ortho-nitrophenyl-B-D-galactopyranoside (ONPG) positive and Methylumbelliferyl glucuronide (MUG) positive.

"Existing uses" means those uses actually attained in fresh or marine waters on or after November 28, 1975, whether or not they are designated uses. Introduced species that are not native to Washington, and put-and-take fisheries comprised of nonself-replicating introduced native species, do not need to receive full support as an existing use.

"Extraordinary primary contact" means waters providing extraordinary protection against waterborne disease or that serve as tributaries to extraordinary quality shellfish harvesting areas.

"Fecal coliform" means that portion of the coliform group which is present in the intestinal tracts and feces of warm-blooded animals as detected by the product of acid or gas from lactose in a suitable culture medium within twenty-four hours at 44.5 plus or minus 0.2 degrees Celsius.

"Geometric mean" means either the nth root of a product of n factors, or the antilogarithm of the arithmetic mean of the logarithms of the individual sample values.

"Ground water exchange" means the discharge and recharge of ground water to a surface water. Discharge is inflow from an aquifer, seeps or springs that increases the available supply of surface water. Recharge is outflow downgradient to an aquifer or downstream to surface water for base flow maintenance. Exchange may include ground water discharge in one season followed by recharge later in the year.

"Hardness" means a measure of the calcium and magnesium salts present in water. For purposes of this chapter, hardness is measured in milligrams per liter and expressed as calcium carbonate (CaCO₃).

"Irrigation ditch" means that portion of a designed and constructed conveyance system that serves the purpose of transporting irrigation water from its supply source to its place of use; this may include natural water courses or channels incorporated in the system design, but does not include the area adjacent to the water course or channel.

"Lakes" shall be distinguished from riverine systems as being water bodies, including reservoirs, with a mean detention time of greater than fifteen days.

"Lake-specific study" means a study intended to quantify existing nutrient concentrations, determine existing characteristic uses for lake class waters, and potential lake uses. The study determines how to protect these uses and if any uses are lost or impaired because of nutrients, algae, or aquatic plants. An appropriate study must recommend a criterion for total phosphorus (TP), total nitrogen (TN) in µg/l, or other nutrient that impairs characteristic uses by causing excessive algae blooms or aquatic plant growth.

"Mean detention time" means the time obtained by dividing a reservoir's mean annual minimum total storage by the thirty-day ten-year low-flow from the reservoir.

"Migration or translocation" means any natural movement of an organism or community of organisms from one locality to another locality.

"Mixing zone" means that portion of a water body adjacent to an effluent outfall where mixing results in the dilution of the effluent with the receiving water. Water quality criteria may be exceeded in a mixing zone as conditioned and provided for in WAC ((173-201A-100)) 173-201A-400.

"Natural conditions" or **"natural background levels"** means surface water quality that was present before any human-caused pollution. When estimating natural conditions in the headwaters of a disturbed watershed it may be necessary to use the less disturbed conditions of a neighboring or similar watershed as a reference condition. (See also WAC 173-201A-260(1).)

"New or expanded actions" mean human actions that occur or are regulated for the first time, or human actions expanded such that they result in an increase in pollution, after July 1, 2003, for the purpose of applying this chapter only.

"Nonpoint source" means pollution that enters any waters of the state from any dispersed land-based or water-based activities, including but not limited to atmospheric deposition, surface water runoff from agricultural lands, urban areas, or forest lands, subsurface or underground sources, or discharges from boats or marine vessels not otherwise regulated under the National Pollutant Discharge Elimination System program.

"Permit" means a document issued pursuant to chapter 90.48 RCW ((90.48.160 et seq. or RCW 90.48.260 or both,)) specifying the waste treatment and control requirements and waste discharge conditions.

"pH" means the negative logarithm of the hydrogen ion concentration.

"Pollution" means such contamination, or other alteration of the physical, chemical, or biological properties, of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.

"Primary contact recreation" means activities where a person would have direct contact with water to the point of complete submergence including, but not limited to, skin diving, swimming, and water skiing.

"Secondary contact recreation" means activities where a person's water contact would be limited (e.g., wading or fishing) to the extent that bacterial infections of eyes, ears, respiratory or digestive systems, or urogenital areas would normally be avoided.

"Shoreline stabilization" means the anchoring of soil at the water's edge, or in shallow water, by fibrous plant root complexes; this may include long-term accretion of sediment or peat, along with shoreline progradation in such areas.

"Storm water" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a storm water drainage system into a defined surface water body, or a constructed infiltration facility.

"Storm water attenuation" means the process by which peak flows from precipitation are reduced and runoff velocities are slowed as a result of passing through a surface water body.

"Surface waters of the state" includes lakes, rivers, ponds, streams, inland waters, saltwaters, wetlands and all other surface waters and water courses within the jurisdiction of the state of Washington.

"Temperature" means water temperature expressed in degrees Celsius (°C).

"Treatment wetlands" means those wetlands intentionally constructed on nonwetland sites and managed for the primary purpose of wastewater or storm water treatment. Treatment wetlands are considered part of a collection and treatment system, and generally are not subject to the criteria of this chapter.

"Trophic state" means a classification of the productivity of a lake ecosystem. Lake productivity depends on the amount of biologically available nutrients in water and sediments and may be based on total phosphorus (TP). Secchi depth and chlorophyll-a measurements may be used to improve the trophic state classification of a lake. Trophic states used in this rule include, from least to most nutrient rich, ultra-oligotrophic, oligotrophic, lower mesotrophic, upper mesotrophic, and eutrophic.

"**Turbidity**" means the clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidimeter.

"**Upwelling**" means the natural process along Washington's Pacific Coast where the summer prevailing northerly winds produce a seaward transport of surface water. Cold, deeper more saline waters rich in nutrients and low in dissolved oxygen, rise to replace the surface water. The cold oxygen deficient water enters Puget Sound and other coastal estuaries at depth where it displaces the existing deep water and eventually rises to replace the surface water. Such surface water replacement results in an overall increase in salinity and nutrients accompanied by a depression in dissolved oxygen. Localized upwelling of the deeper water of Puget Sound can occur year-round under influence of tidal currents, winds, and geomorphic features.

"**USEPA**" means the United States Environmental Protection Agency.

"**Wetlands**" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. (Water bodies not included in the definition of wetlands as well as those mentioned in the definition are still waters of the state.)

"**Wildlife habitat**" means waters of the state used by, or that directly or indirectly provide food support to, fish, other aquatic life, and wildlife for any life history stage or activity.

AMENDATORY SECTION (Amending Order 94-19, filed 11/18/97, effective 12/19/97)

WAC 173-201A-040 Toxic substances. (1) Toxic substances shall not be introduced above natural background levels in waters of the state which have the potential either singularly or cumulatively to adversely affect characteristic water uses, cause acute or chronic toxicity to the most sensitive biota dependent upon those waters, or adversely affect public health, as determined by the department.

(2) The department shall employ or require chemical testing, acute and chronic toxicity testing, and biological assessments, as appropriate, to evaluate compliance with subsection (1) of this section and to ensure that aquatic communities and the existing and characteristic beneficial uses of waters are being fully protected.

(3) The following criteria, found in Table 240(3), shall be applied to all surface waters of the state of Washington for the protection of aquatic life. The department may revise the following criteria on a statewide or water body-specific basis as needed to protect aquatic life occurring in waters of the state and to increase the technical accuracy of the criteria being applied. The department shall formally adopt any appropriate revised criteria as part of this chapter in accordance with the provisions established in chapter 34.05 RCW, the Administrative Procedure Act. The department shall ensure there are early opportunities for public review and comment on proposals to develop revised criteria. Values are µg/L for all substances except Ammonia and Chloride which are mg/L:

Table 240(3)
Toxics Substances Criteria

Substance	Freshwater		Marine Water	
	Acute	Chronic	Acute	Chronic
Aldrin/Dieldrin e	2.5a	0.0019b	0.71a	0.0019b
Ammonia (un-ionized NH ₃) hh	f,c	g,d	0.233h,c	0.035h,d
Arsenic dd	360.0c	190.0d	69.0c,ll	36.0d,cc,ll
Cadmium dd	i,c	j,d	42.0c	9.3d
Chlordane	2.4a	0.0043b	0.09a	0.004b
Chloride (Dissolved) k	860.0h,c	230.0h,d	-	-
Chlorine (Total Residual)	19.0c	11.0d	13.0c	7.5d
Chlorpyrifos	0.083c	0.041d	0.011c	0.0056d
Chromium (Hex) dd	15.0c,1,ii	10.0d,jj	1,100.0c,1,ll	50.0d,ll
Chromium (Tri) gg	m,c	n,d	-	-
Copper dd	o,c	p,d	4.8c,ll	3.1d,ll
Cyanide ee	22.0c	5.2d	1.0c,mm	((-) d,mm)
DDT (and metabolites)	1.1a	0.001b	0.13a	0.001b
Dieldrin/Aldrin e	2.5a	0.0019b	0.71a	0.0019b
Endosulfan	0.22a	0.056b	0.034a	0.0087b
Endrin	0.18a	0.0023b	0.037a	0.0023b
Heptachlor	0.52a	0.0038b	0.053a	0.0036b

PERMANENT

Substance	Freshwater		Marine Water	
	Acute	Chronic	Acute	Chronic
Hexachlorocyclohexane (Lindane)	2.0a	0.08b	0.16a	-
((Lindane))	2.0a	0.08b	0.16a	-))
Lead dd	q,c	r,d	210.0c,II	8.1d,II
Mercury s	2.1c,kk,dd	0.012d,ff	1.8c,II,dd	0.025d,ff
Nickel dd	t,c	u,d	74.0c,II	8.2d,II
Parathion	0.065c	0.013d	-	-
Pentachlorophenol (PCP)	w,c	v,d	13.0c	7.9d
Polychlorinated				
Biphenyls (PCBs)	2.0b	0.014b	10.0b	0.030b
Selenium	20.0c,ff	5.0d,ff	290c,II,dd	71.0d, x,II,dd
Silver dd	y,a	-	1.9a,II	-
Toxaphene	0.73c,z	0.0002d	0.21c,z	0.0002d
Zinc dd	aa,c	bb,d	90.0c,II	81.0d,II

Notes to Table 240(3):

- a. An instantaneous concentration not to be exceeded at any time.
- b. A 24-hour average not to be exceeded.
- c. A 1-hour average concentration not to be exceeded more than once every three years on the average.
- d. A 4-day average concentration not to be exceeded more than once every three years on the average.
- e. Aldrin is metabolically converted to Dieldrin. Therefore, the sum of the Aldrin and Dieldrin concentrations are compared with the Dieldrin criteria.
- f. Shall not exceed the numerical value given by:

$$((0.52^{-1}(FT)(FPH)(2))$$

where:

$$FT = 10\{0.03(20 - TCAP)\}; TCAP \leq T \leq 30$$

$$FT = 10\{0.03(20 - T)\}; 0 \leq T \leq TCAP$$

$$FPH = 1 + 8 \leq pH \leq 9$$

$$FPH = -(1 + 10^{(7.4 - pH)})^{-1} + 1.25; 6.5 \leq pH \leq 8.0$$

$$TCAP = 20 \times C; \text{Salmonids present.}$$

$$TCAP = 25 \times C; \text{Salmonids absent.})$$

For salmonids present: $\frac{0.275}{1 + 10^{(7.204 - pH)}} \pm \frac{39.0}{1 + 10^{(pH - 7.205)}}$

For salmonids absent: $\frac{0.411}{1 + 10^{(7.204 - pH)}} \pm \frac{58.4}{1 + 10^{(pH - 7.20)}}$

Unionized ammonia concentration for waters where salmonid habitat is an existing or designated use:

$$0.80 + (FT)(FPH)(RATIO)$$

where:

$$RATIO = 13.5; 7.7 \leq pH \leq 9$$

$$RATIO = (20.25 \times 10^{(7.7 - pH)}) + (1 + 10^{(7.4 - pH)}); 6.5 \leq pH \leq 7.7$$

((where: FT and FPH are as shown in (f) above except: TCAP = 15 x C; Salmonids present. TCAP = 20 x C; Salmonids absent.))

$$FT \equiv 1.4; 15 \leq T \leq 30$$

$$FT \equiv 10\{0.03(20 - T)\}; 0 \leq T \leq 15$$

$$FPH \equiv 1; 8 \leq pH \leq 9$$

$$FPH \equiv (1 + 10^{(7.4 - pH)})^{-1} + 1.25; 6 \leq pH \leq 8.0$$

- g. Shall not exceed the numerical ((value given by)) concentration calculated as follows:

Total ammonia concentrations for waters where salmonid habitat is not an existing or designated use and other fish early life stages are absent:

$$\text{Chronic criterion} \equiv \frac{0.0557}{1 + 10^{(7.688 - pH)}} \pm \frac{2.487}{1 + 10^{(pH - 7.688)}} (1.45 \times 10^{(0.028(25 - A))})$$

where: A \equiv the greater of either T (temperature in degrees Celsius) or 7.

Applied as a thirty-day average concentration of total ammonia nitrogen (in mg N/L) not to be exceeded more than once every three years on average. The highest four-day average within the thirty-day period should not exceed 2.5 times the chronic criterion.

Total ammonia concentration for waters where salmonid habitat is not an existing or designated use and other fish early life stages are present:

$$\text{Chronic criterion} \equiv \frac{0.0557}{1 + 10^{(7.688 - pH)}} \pm \frac{2.487}{1 + 10^{(pH - 7.688)}} (B)$$

where: B \equiv the lower of either 2.85, or $1.45 \times 10^{(0.028 \times (25 - T))}$. T = temperature in degrees Celsius.

Applied as a thirty-day average concentration of total ammonia nitrogen (in mg N/L) not to be exceeded more than once every three years on the average. The highest four-day average within the thirty-day period should not exceed 2.5 times the chronic criterion.

- i. $\leq (0.944)(e^{(1.128((\text{H}) \ln(\text{hardness}))-3.828)})$ at hardness = 100. Conversion factor (CF) of 0.944 is hardness dependent. CF is calculated for other hardnesses as follows: $CF = 1.136672 - [((\text{H}) \ln(\text{hardness}))(0.041838)]$.

- h. Measured in milligrams per liter rather than micrograms per liter.

PERMANENT

- j. $\leq (0.909)(e^{(0.7852((\text{H}) \ln(\text{hardness}))-3.490)})$ at hardness = 100. Conversion factor (CF) of 0.909 is hardness dependent. CF is calculated for other hardnesses as follows: $CF = 1.101672 - (((\text{H}) \ln(\text{hardness}))(0.041838))$.
- k. Criterion based on dissolved chloride in association with sodium. This criterion probably will not be adequately protective when the chloride is associated with potassium, calcium, or magnesium, rather than sodium.
- l. Salinity dependent effects. At low salinity the 1-hour average may not be sufficiently protective.
- m. $\leq (0.316)e^{(0.8190((\text{H}) \ln(\text{hardness}))) + 3.688}$
- n. $\leq (0.860)e^{(0.8190((\text{H}) \ln(\text{hardness}))) + 1.561}$
- o. $\leq (0.960)(e^{(0.9422((\text{H}) \ln(\text{hardness}))) - 1.464})$
- p. $\leq (0.960)(e^{(0.8545((\text{H}) \ln(\text{hardness}))) - 1.465})$
- q. $\leq (0.791)(e^{(1.273((\text{H}) \ln(\text{hardness}))) - 1.460})$ at hardness = 100. Conversion factor (CF) of 0.791 is hardness dependent. CF is calculated for other hardnesses as follows: $CF = 1.46203 - (((\text{H}) \ln(\text{hardness}))(0.145712))$.
- r. $\leq (0.791)(e^{(1.273((\text{H}) \ln(\text{hardness}))) - 4.705})$ at hardness = 100. Conversion factor (CF) of 0.791 is hardness dependent. CF is calculated for other hardnesses as follows: $CF = 1.46203 - (((\text{H}) \ln(\text{hardness}))(0.145712))$.
- s. If the four-day average chronic concentration is exceeded more than once in a three-year period, the edible portion of the consumed species should be analyzed. Said edible tissue concentrations shall not be allowed to exceed 1.0 mg/kg of methylmercury.
- t. $\leq (0.998)(e^{(0.8460((\text{H}) \ln(\text{hardness}))) + 3.3612})$
- u. $\leq (0.997)(e^{(0.8460((\text{H}) \ln(\text{hardness}))) + 1.1645})$
- v. $\leq e^{(1.005(\text{pH}) - 5.290)}$
- w. $\leq e^{(1.005(\text{pH}) - 4.830)}$
- x. The status of the fish community should be monitored whenever the concentration of selenium exceeds 5.0 $\mu\text{g}/(\text{L})$ in salt water.
- y. $\leq (0.85)(e^{(1.72((\text{H}) \ln(\text{hardness}))) - 6.52})$
- z. Channel Catfish may be more acutely sensitive.
- aa. $\leq (0.978)(e^{(0.8473((\text{H}) \ln(\text{hardness}))) + 0.8604})$
- bb. $\leq (0.986)(e^{(0.8473((\text{H}) \ln(\text{hardness}))) + 0.7614})$
- cc. Nonlethal effects (growth, C-14 uptake, and chlorophyll production) to diatoms (*Thalassiosira aestivalis* and *Skeletonema costatum*) which are common to Washington's waters have been noted at levels below the established criteria. The importance of these effects to the diatom populations and the aquatic system is sufficiently in question to persuade the state to adopt the USEPA National Criteria value (36 $\mu\text{g}/\text{L}$) as the state threshold criteria, however, wherever practical the ambient concentrations should not be allowed to exceed a chronic marine concentration of 21 $\mu\text{g}/\text{L}$.
- dd. These ambient criteria in the table are for the dissolved fraction. The cyanide criteria are based on the weak acid dissociable method. The metals criteria may not be used to calculate total recoverable effluent limits unless the seasonal partitioning of the dissolved to total metals in the ambient water are known. When this information is absent, these metals criteria shall be applied as total recoverable values, determined by back-calculation, using the conversion factors incorporated in the criterion equations. Metals criteria may be adjusted on a site-specific basis when data are made available to the department clearly demonstrating the effective use of the water effects ratio approach established by USEPA, as generally guided by the procedures in USEPA Water Quality Standards Handbook, December 1983, as supplemented or replaced by USEPA or ecology. Information which is used to develop effluent limits based on applying metals partitioning studies or the water effects ratio approach shall be identified in the permit fact sheet developed pursuant to WAC 173-220-060 or 173-226-110, as appropriate, and shall be made available for the public comment period required pursuant to WAC 173-220-050 or 173-226-130(3), as appropriate. Ecology has developed supplemental guidance for conducting water effect ratio studies.
- ee. The criteria for cyanide is based on the weak ((and)) acid dissociable method in the 17th Ed. Standard Methods for the Examination of Water and Wastewater, 4500-CN I, and as revised (see footnote dd, above).
- ff. These criteria are based on the total-recoverable fraction of the metal.

- gg. Where methods to measure trivalent chromium are unavailable, these criteria are to be represented by total-recoverable chromium.
- hh. The listed fresh water criteria are based on unionized or total ammonia concentrations, while those for marine water are based on total ammonia concentrations. Tables for the conversion of total ammonia to un-ionized ammonia for freshwater can be found in the USEPA's Quality Criteria for Water, 1986. Criteria concentrations based on total ammonia for marine water can be found in USEPA Ambient Water Quality Criteria for Ammonia (Saltwater)-1989, EPA440/5-88-004, April 1989.
 - ii. The conversion factor used to calculate the dissolved metal concentration ((is)) was 0.982.
 - jj. The conversion factor used to calculate the dissolved metal concentration ((is)) was 0.962.
 - kk. The conversion factor used to calculate the dissolved metal concentration ((is)) was 0.85.
- ll. Marine conversion factors (CF) which were used for calculating dissolved metals concentrations are given below. Conversion factors are applicable to both acute and chronic criteria for all metals except mercury. The CF for mercury ((is-applicable)) was applied to the acute criterion only and is not applicable to the chronic criterion. Conversion factors are already incorporated into the criteria in the table. Dissolved criterion = criterion x CF

Metal	CF
Arsenic	1.000
Cadmium	0.994
Chromium (VI)	0.993
Copper	0.83
Lead	0.951
Mercury	0.85
Nickel	0.990
Selenium	0.998
Silver	0.85
Zinc	0.946
- mm. The cyanide criteria are: ((9+)) 2.8 $\mu\text{g}/\text{l}$ chronic and ((2-8)) 9.1 $\mu\text{g}/\text{l}$ acute and are applicable only to waters which are east of a line from Point Roberts to Lawrence Point, to Green Point to Deception Pass; and south from Deception Pass and of a line from Partridge Point to Point Wilson. The chronic criterion applicable to the remainder of the marine waters is 1 $\mu\text{g}/\text{L}$.

(4) USEPA Quality Criteria for Water, 1986, as revised, shall be used in the use and interpretation of the values listed in subsection (3) of this section.

(5) Concentrations of toxic, and other substances with toxic propensities not listed in subsection (3) of this section shall be determined in consideration of USEPA Quality Criteria for Water, 1986, and as revised, and other relevant information as appropriate. Human health-based water quality criteria used by the state are contained in 40 CFR 131.36 (known as the National Toxics Rule).

(6) Risk-based criteria for carcinogenic substances shall be selected such that the upper-bound excess cancer risk is less than or equal to one in one million.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 92-29, filed 11/25/92, effective 12/26/92)

WAC 173-201A-100 Mixing zones. (1) The allowable size and location of a mixing zone and the associated effluent

PERMANENT

limits shall be established in discharge permits, general permits, or orders, as appropriate.

(2) A discharger shall be required to fully apply AKART prior to being authorized a mixing zone.

(3) Mixing zone determinations shall consider critical discharge conditions.

(4) No mixing zone shall be granted unless the supporting information clearly indicates the mixing zone would not have a reasonable potential to cause a loss of sensitive or important habitat, substantially interfere with the existing or characteristic uses of the water body, result in damage to the ecosystem, or adversely affect public health as determined by the department.

(5) Water quality criteria shall not be violated outside of the boundary of a mixing zone as a result of the discharge for which the mixing zone was authorized.

(6) The size of a mixing zone and the concentrations of pollutants present shall be minimized.

(7) The maximum size of a mixing zone shall comply with the following:

(a) In rivers and streams, mixing zones, singularly or in combination with other mixing zones, shall comply with the most restrictive combination of the following (this size limitation may be applied to estuaries having flow characteristics that resemble rivers):

(i) Not extend in a downstream direction for a distance from the discharge port(s) greater than three hundred feet plus the depth of water over the discharge port(s), or extend upstream for a distance of over one hundred feet;

(ii) Not utilize greater than twenty-five percent of the flow; and

(iii) Not occupy greater than twenty-five percent of the width of the water body.

(b) In estuaries, mixing zones, singularly or in combination with other mixing zones, shall:

(i) Not extend in any horizontal direction from the discharge port(s) for a distance greater than two hundred feet plus the depth of water over the discharge port(s) as measured during mean lower low water; and

(ii) Not occupy greater than twenty-five percent of the width of the water body as measured during mean lower low water. For the purpose of this section, areas to the east of a line from Green Point (Fidalgo Island) to Lawrence Point (Orcas Island) are considered estuarine, as are all of the Strait of Georgia and the San Juan Islands north of Orcas Island. To the east of Deception Pass, and to the south and east of Admiralty Head, and south of Point Wilson on the Quimper Peninsula, is Puget Sound proper, which is considered to be entirely estuarine. All waters existing within bays from Point Wilson westward to Cape Flattery and south to the North Jetty of the Columbia River shall also be categorized as estuarine.

(c) In oceanic waters, mixing zones, singularly or in combination with other mixing zones, shall not extend in any horizontal direction from the discharge port(s) for a distance greater than three hundred feet plus the depth of water over the discharge port(s) as measured during mean lower low water. For the purpose of this section, all marine waters not classified as estuarine in (b)(ii) of this subsection shall be categorized as oceanic.

(d) In lakes, and in reservoirs having a mean detention time greater than fifteen days, mixing zones shall not be allowed unless it can be demonstrated to the satisfaction of the department that:

(i) Other siting, technological, and managerial options that would avoid the need for a lake mixing zone are not reasonably achievable;

(ii) Overriding considerations of the public interest will be served; and

(iii) All technological and managerial methods available for pollution reduction and removal that are economically achievable would be implemented prior to discharge. Such methods may include, but not be limited to, advanced waste treatment techniques.

(e) In lakes, and in reservoirs having a mean detention time greater than fifteen days, mixing zones, singularly or in combination with other mixing zones, shall comply with the most restrictive combination of the following:

(i) Not exceed ten percent of the water body volume;

(ii) Not exceed ten percent of the water body surface area (maximum radial extent of the plume regardless of whether it reaches the surface); and

(iii) Not extend beyond fifteen percent of the width of the water body.

(8) Acute criteria are based on numeric criteria and toxicity tests approved by the department, as generally guided under WAC ((~~173-201A-040~~) 173-201A-240) (1) through (5), and shall be met as near to the point of discharge as practicably attainable. Compliance shall be determined by monitoring data or calibrated models approved by the department utilizing representative dilution ratios. A zone where acute criteria may be exceeded is allowed only if it can be demonstrated to the department's satisfaction the concentration of, and duration and frequency of exposure to the discharge, will not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem. A zone of acute criteria exceedance shall singularly or in combination with other such zones comply with the following maximum size requirements:

(a) In rivers and streams, a zone where acute criteria may be exceeded shall comply with the most restrictive combination of the following (this size limitation may also be applied to estuaries having flow characteristics resembling rivers):

(i) Not extend beyond ten percent of the distance towards the upstream and downstream boundaries of an authorized mixing zone, as measured independently from the discharge port(s);

(ii) Not utilize greater than two and one-half percent of the flow; and

(iii) Not occupy greater than twenty-five percent of the width of the water body.

(b) In oceanic and estuarine waters a zone where acute criteria may be exceeded shall not extend beyond ten percent of the distance established in subsection (7)(b) of this section as measured independently from the discharge port(s).

(9) Overlap of mixing zones.

(a) Where allowing the overlap of mixing zones would result in a combined area of water quality criteria nonattainment which does not exceed the numeric size limits estab-

lished under subsection (7) of this section, the overlap may be permitted if:

(i) The separate and combined effects of the discharges can be reasonably determined; and

(ii) The combined effects would not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem.

(b) Where allowing the overlap of mixing zones would result in exceedance of the numeric size limits established under subsection (7) of this section, the overlap may be allowed only where:

(i) The overlap qualifies for exemption under subsections (12) and (13) of this section; and

(ii) The overlap meets the requirements established in (a) of this subsection.

(10) Storm water:

(a) Storm water discharge from any "point source" containing "process wastewater" as defined in 40 C.F.R. Part 122.2 shall fully conform to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section.

(b) Storm water discharges not described by (a) of this subsection may be granted an exemption to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section, provided the discharger clearly demonstrates to the department's satisfaction that:

(i) All appropriate best management practices established for storm water pollutant control have been applied to the discharge.

(ii) The proposed mixing zone shall not have a reasonable potential to result in a loss of sensitive or important habitat, substantially interfere with the existing or characteristic uses of the water body, result in damage to the ecosystem, or adversely affect public health as determined by the department; and

(iii) The proposed mixing zone shall not create a barrier to the migration or translocation of indigenous organisms to a degree that has the potential to cause damage to the ecosystem.

(c) All mixing zones for storm water discharges shall be based on a volume of runoff corresponding to a design storm approved by the department. Exceedances from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section due to precipitation events greater than the approved design storm may be allowed by the department, if it would not result in adverse impact to existing or characteristic uses of the water body or result in damage to the ecosystem, or adversely affect public health as determined by the department.

(11) Combined sewer overflows complying with the requirements of chapter 173-245 WAC, may be allowed an average once per year exemption to the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section, provided the discharge complies with subsection (4) of this section.

(12) Exceedances from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in

subsection (9) of this section may be considered by the department in the following cases:

(a) For discharges existing prior to November 24, 1992, (or for proposed discharges with engineering plans formally approved by the department prior to November 24, 1992);

(b) Where altering the size configuration is expected to result in greater protection to existing and characteristic uses;

(c) Where the volume of water in the effluent is providing a greater benefit to the existing or characteristic uses of the water body due to flow augmentation than the benefit of removing the discharge, if such removal is the remaining feasible option; or

(d) Where the exceedance is clearly necessary to accommodate important economic or social development in the area in which the waters are located.

(13) Before an exceedance from the numeric size criteria in subsections (7) and (8) of this section and the overlap criteria in subsection (9) of this section may be allowed under subsection (12) of this section, it must clearly be demonstrated to the department's satisfaction that:

(a) AKART appropriate to the discharge is being fully applied;

(b) All siting, technological, and managerial options which would result in full or significantly closer compliance that are economically achievable are being utilized; and

(c) The proposed mixing zone complies with subsection (4) of this section.

(14) Any exemptions granted to the size criteria under subsection (12) of this section shall be reexamined during each permit renewal period for changes in compliance capability. Any significant increase in capability to comply shall be reflected in the renewed discharge permit.

(15) The department may establish permit limits and measures of compliance for human health based criteria (based on lifetime exposure levels), independent of this section.

(16) Sediment impact zones authorized by the department pursuant to chapter 173-204 WAC, Sediment management standards, do not satisfy the requirements of this section.

AMENDATORY SECTION (Amending Order 94-19, filed 11/18/97, effective 12/19/97)

WAC 173-201A-110 Short-term modifications. The criteria and special conditions established in WAC ((173-201A-030)) 173-201A-200 through ((173-201A-140)) 173-201A-260, 173-201A-602 and 173-201A-612 may be modified for a specific water body on a short-term basis (e.g., actual periods of nonattainment would generally be limited to hours or days rather than weeks or months) when necessary to accommodate essential activities, respond to emergencies, or to otherwise protect the public interest, even though such activities may result in a temporary reduction of water quality conditions (~~(below those criteria and classifications established by this regulation. Such activities must be conditioned, timed, and restricted (i.e., hours or days rather than weeks or months) in a manner that will minimize water quality degradation to existing and characteristic uses. In no case will any degradation of water quality be allowed if this deg-~~

radation significantly interferes with or becomes injurious to characteristic water uses or causes long-term harm to the environment).

(1) A short-term modification will:

(a) Be authorized in writing by the department, and conditioned, timed, and restricted in a manner that will minimize degradation of water quality, existing uses, and designated uses;

(b) Be valid for the duration of the activity requiring modification of the criteria and special conditions in WAC 173-201A-200 through 173-201A-260, 173-201A-602 or 173-201A-612, as determined by the department;

(c) Allow degradation of water quality if the degradation does not significantly interfere with or become injurious to existing or designated water uses or cause long-term harm to the environment; and

(d) In no way lessen or remove the proponent's obligations and liabilities under other federal, state, and local rules and regulations.

(2) The department may authorize a longer duration where the activity is part of an ongoing or long-term operation and maintenance plan, integrated pest or noxious weed management plan, water body or watershed management plan, or restoration plan. Such a plan must be developed through a public involvement process consistent with the Administrative Procedure Act (chapter 34.05 RCW) and be in compliance with SEPA, chapter 43.21C RCW, in which case the standards may be modified for the duration of the plan, or for five years, whichever is less. Such long-term plans may be renewed by the department after providing for another opportunity for public and intergovernmental involvement and review.

(3) The department may allow a major watershed restoration activity that will provide greater benefits to the health of the aquatic system in the long-term (examples include removing dams or reconnecting meander channels) that, in the short term, may cause significant impacts to existing or designated uses as a result of the activities to restore the water body and environmental conditions. Authorization will be given in accordance with subsection (2) of this section.

(4) A short-term modification may be issued in writing by the director or his/her designee to an individual or entity proposing the aquatic application of pesticides, including but not limited to those used for control of federally or state listed noxious and invasive species, and excess populations of native aquatic plants, mosquitoes, burrowing shrimp, and fish, subject to the following terms and conditions:

(a) ~~((A short-term modification will in no way lessen or remove the project proponent's obligations and liabilities under other federal, state and local rules and regulations.~~

(b)) A request for a short-term modification shall be made to the department on forms supplied by the department. Such request shall be made at least thirty days prior to initiation of the proposed activity, and after the project proponent has complied with the requirements of the State Environmental Policy Act (SEPA);

~~((e) A short-term modification shall be valid for the duration of the activity requiring modification of the criteria and special conditions in WAC 173-201A-030 through 173-201A-140, or for one year, whichever is less. Ecology may~~

~~authorize a longer duration where the activity is part of an ongoing or long-term operation and maintenance plan, integrated pest or noxious weed management plan, waterbody or watershed management plan, or restoration plan. Such a plan must be developed through a public involvement process consistent with the Administrative Procedure Act (chapter 34.05 RCW) and be in compliance with SEPA, chapter 43.21C RCW, in which case the standards may be modified for the duration of the plan, or for five years, whichever is less;~~

~~(d))~~ (b) Appropriate public notice as determined and prescribed by the director or his/her designee shall be given, identifying the pesticide, applicator, location where the pesticide will be applied, proposed timing and method of application, and any water use restrictions specified in USEPA label provisions;

~~((e))~~ (c) The pesticide application shall be made at times so as to:

(i) Minimize public water use restrictions during weekends; and

(ii) Avoid public water use restrictions during the opening week of fishing season, Memorial Day weekend, Independence Day weekend, and Labor Day weekend;

~~((f))~~ (d) Any additional conditions as may be prescribed by the director or his/her designee.

~~((2))~~ (5) A short-term modification may be issued for the control or eradication of noxious weeds identified as such in accordance with the state noxious weed control law, chapter 17.10 RCW, and Control of spartina and purple loosestrife, chapter 17.26 RCW. Short-term modifications for noxious weed control shall be included in a water quality permit issued in accordance with RCW 90.48.445, and the following requirements:

(a) The department may issue water quality permits for noxious weed control ((may be issued)) to the Washington state department of agriculture (WSDA) for the purposes of coordinating and conducting noxious weed control activities consistent with ((their)) WSDA's responsibilities under chapters 17.10 and 17.26 RCW. Coordination may include noxious weed control activities identified in a WSDA integrated noxious weed management plan and conducted by individual landowners or land managers.

(b) The department may also issue water quality permits ((may also be issued)) to individual landowners or land managers for noxious weed control activities where such activities are not covered by a WSDA integrated noxious weed management plan.

~~((3) The turbidity criteria established under WAC 173-201A-030 shall be modified to allow a temporary mixing zone during and immediately after necessary in-water or shoreline construction activities that result in the disturbance of in-place sediments. A temporary turbidity mixing zone is subject to the constraints of WAC 173-201A-100 (4) and (6) and is authorized only after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedances of the turbidity criteria. A temporary turbidity mixing zone shall be as follows:~~

(a) For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from activity causing the turbidity exceedance.

(b) For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of activity causing the turbidity exceedance.

(c) For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of activity causing the turbidity exceedance.

(d) For projects working within or along lakes, ponds, wetlands, estuaries, marine waters or other nonflowing waters, the point of compliance shall be at a radius of one hundred fifty feet from activity causing the turbidity exceedance.)

AMENDATORY SECTION (Amending Order 94-19, filed 11/18/97, effective 12/19/97)

WAC 173-201A-160 Means of implementation. (1) (~~Discharges from municipal, commercial, and industrial operations.~~) **Permitting.** The primary means to be used for controlling municipal, commercial, and industrial waste discharges shall be through the issuance of waste (~~disposal~~) discharge permits, as provided for in RCW 90.48.160, 90.48.162, and 90.48.260. Waste discharge permits, whether issued pursuant to the National Pollutant Discharge Elimination System or otherwise, must be conditioned so the discharges authorized will meet the water quality standards. No waste discharge permit can be issued that causes or contributes to a violation of water quality criteria, except as provided for in this chapter.

(a) Persons discharging wastes in compliance with the terms and conditions of permits are not subject to civil and criminal penalties on the basis that the discharge violates water quality standards.

(b) Permits must be modified by the department when it is determined that the discharge causes or contributes to a violation of water quality standards. Major modification of permits is subject to review in the same manner as the originally issued permits.

(2) **Miscellaneous waste discharge or water quality effect sources.** The director shall, through the issuance of regulatory permits, directives, and orders, as are appropriate, control miscellaneous waste discharges and water quality effect sources not covered by subsection (1) of this section.

(3) Nonpoint source and storm water pollution.

(a) Activities which generate nonpoint source pollution shall be conducted so as to comply with the water quality standards. The primary means to be used for requiring compliance with the standards shall be through best management practices required in waste discharge permits, rules, orders, and directives issued by the department for activities which generate nonpoint source pollution.

(b) Best management practices shall be applied so that when all appropriate combinations of individual best management practices are utilized, violation of water quality criteria shall be prevented. If a discharger is applying all best management practices appropriate or required by the department and a violation of water quality criteria occurs, the dis-

charger shall modify existing practices or apply further water pollution control measures, selected or approved by the department, to achieve compliance with water quality criteria. Best management practices established in permits, orders, rules, or directives of the department shall be reviewed and modified, as appropriate, so as to achieve compliance with water quality criteria.

(c) Activities which contribute to nonpoint source pollution shall be conducted utilizing best management practices to prevent violation of water quality criteria. When applicable best management practices are not being implemented, the department may conclude individual activities are causing pollution in violation of RCW 90.48.080. In these situations, the department may pursue orders, directives, permits, or civil or criminal sanctions to gain compliance with the standards.

(d) Activities which cause pollution of storm water shall be conducted so as to comply with the water quality standards. The primary means to be used for requiring compliance with the standards shall be through best management practices required in waste discharge permits, rules, orders, and directives issued by the department for activities which generate storm water pollution. The consideration and control procedures in (b) and (c) of this subsection apply to the control of pollutants in storm water.

(4) General allowance for compliance schedules.

(a) Permits, orders, and directives of the department for existing discharges may include a schedule for achieving compliance with water quality criteria contained in this chapter. Such schedules of compliance shall be developed to ensure final compliance with all water quality-based effluent limits in the shortest practicable time. Decisions regarding whether to issue schedules of compliance will be made on a case-by-case basis by the department. Schedules of compliance may not be issued for new discharges. Schedules of compliance may be issued to allow for: (i) construction of necessary treatment capability; (ii) implementation of necessary best management practices; (iii) implementation of additional storm water best management practices for discharges determined not to meet water quality criteria following implementation of an initial set of best management practices; (iv) completion of necessary water quality studies; or (v) resolution of a pending water quality standards' issue through rule-making action.

(b) For the period of time during which compliance with water quality criteria is deferred, interim effluent limitations shall be formally established, based on the best professional judgment of the department. Interim effluent limitations may be numeric or nonnumeric (e.g., construction of necessary facilities by a specified date as contained in an ecology order or permit).

(c) Prior to establishing a schedule of compliance, the department shall require the discharger to evaluate the possibility of achieving water quality criteria via nonconstruction changes (e.g., facility operation, pollution prevention). Schedules of compliance may in no case exceed ten years, and shall generally not exceed the term of any permit.

(5) Compliance schedules for dams:

(a) All dams in the state of Washington must comply with the provisions of this chapter.

(b) For dams that cause or contribute to a violation of the water quality standards, the dam owner must develop a water quality attainment plan that provides a detailed strategy for achieving compliance. The plan must include:

(i) A compliance schedule that does not exceed ten years;

(ii) Identification of all reasonable and feasible improvements that could be used to meet standards, or if meeting the standards is not attainable, then to achieve the highest attainable level of improvement;

(iii) Any department-approved gas abatement plan as described in WAC 173-201A-200 (1)(f)(ii);

(iv) Analytical methods that will be used to evaluate all reasonable and feasible improvements;

(v) Water quality monitoring, which will be used by the department to track the progress in achieving compliance with the state water quality standards; and

(vi) Benchmarks and reporting sufficient for the department to track the applicant's progress toward implementing the plan within the designated time period.

(c) The plan must ensure compliance with all applicable water quality criteria, as well as any other requirements established by the department (such as through a total maximum daily load, or TMDL, analysis).

(d) If the department is acting on an application for a water quality certification, the approved water quality attainment plan may be used by the department in its determination that there is reasonable assurance that the dam will not cause or contribute to a violation of the water quality standards.

(e) When evaluating compliance with the plan, the department will allow the use of models and engineering estimates to approximate design success in meeting the standards.

(f) If reasonable progress toward implementing the plan is not occurring in accordance with the designated time frame, the department may declare the project in violation of the water quality standards and any associated water quality certification.

(g) If an applicable water quality standard is not met by the end of the time provided in the attainment plan, or after completion of all reasonable and feasible improvements, the owner must take the following steps:

(i) Evaluate any new reasonable and feasible technologies that have been developed (such as new operational or structural modifications) to achieve compliance with the standards, and develop a new compliance schedule to evaluate and incorporate the new technology;

(ii) After this evaluation, if no new reasonable and feasible improvements have been identified, then propose an alternative to achieve compliance with the standards, such as site specific criteria (WAC 173-201A-430), a use attainability analysis (WAC 173-201A-440), or a water quality offset (WAC 173-201A-450).

(h) New dams, and any modifications to existing facilities that do not comply with a gas abatement or other pollution control plan established to meet criteria for the water

body, must comply with the water quality standards at the time of project completion.

(i) Structural changes made as a part of a department approved gas abatement plan to aid fish passage, described in WAC 173-201A-200 (1)(f)(ii), may result in system performance limitations in meeting water quality criteria for that parameter at other times of the year.

AMENDATORY SECTION (Amending Order 92-29, filed 11/25/92, effective 12/26/92)

WAC 173-201A-170 ((~~Surveillance~~)) Monitoring and compliance. A continuing surveillance program, to ascertain whether the regulations, waste disposal permits, orders, and directives promulgated and/or issued by the department are being complied with, will be conducted by the department staff as follows:

- (1) Inspecting treatment and control facilities.
- (2) Monitoring and reporting waste discharge characteristics.
- (3) Monitoring receiving water quality.

PART II - DESIGNATED USES AND CRITERIA

NEW SECTION

WAC 173-201A-200 Fresh water designated uses and criteria. The following uses are designated for protection in fresh surface waters of the state. Use designations for water bodies are listed in WAC 173-201A-600 and 173-201A-602.

(1) **Aquatic life uses.** Aquatic life uses are designated using the following categories of key species. It is required that all indigenous fish and nonfish aquatic species be protected in waters of the state in addition to the key species described below.

(a) The categories for aquatic life uses are:

(i) **Char.** For the protection of spawning and early tributary rearing (e.g., first year juveniles) of native char (bull trout and Dolly Varden), and other associated aquatic life.

(ii) **Salmon and trout spawning, core rearing, and migration.** For the protection of spawning, core rearing, and migration of salmon and trout, and other associated aquatic life.

(iii) **Salmon and trout spawning, noncore rearing, and migration.** For the protection of spawning, noncore rearing, and migration of salmon and trout, and other associated aquatic life.

(iv) **Salmon and trout rearing and migration only.** For the protection of rearing and migration of salmon and trout, and other associated aquatic life.

(v) **Non-anadromous interior redband trout.** For the protection of waters where the only trout species is a non-anadromous form of self-reproducing interior redband trout (*O. mykiss*), and other associated aquatic life.

(vi) **Indigenous warm water species.** For the protection of waters where the dominant species under natural conditions would be temperature tolerant indigenous nonsalmo-

nid species. Examples include dace, redbreast shiner, chiselmouth, sucker, and northern pikeminnow.

(b) **General criteria.** General criteria that apply to all aquatic life fresh water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(c) **Aquatic life temperature criteria.** Except where noted, water temperature is measured by the 7-day average of the daily maximum temperatures (7-DADMax). Table 200 (1)(c) lists the temperature criteria for each of the aquatic life use categories.

Table 200 (1)(c)

Aquatic Life Temperature Criteria in Fresh Water

Category	Highest 7-DADMax
Char	12°C (53.6°F)
Salmon and Trout Spawning, Core Rearing, and Migration	16°C (60.8°F)
Salmon and Trout Spawning, Noncore Rearing, and Migration	17.5°C (63.5°F)
Salmon and Trout Rearing and Migration Only	17.5°C (63.5°F)
Non-anadromous Interior Red-band Trout	18°C (64.4°F)
Indigenous Warm Water Species	20°C (68°F)

(i) When a water body's temperature is warmer than the criteria in Table 200 (1)(c) (or within 0.3°C (0.54°F) of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the 7-DADMax temperature of that water body to increase more than 0.3°C (0.54°F).

(ii) When the natural condition of the water is cooler than the criteria in Table 200 (1)(c), the allowable rate of warming up to, but not exceeding, the numeric criteria from human actions is restricted as follows:

(A) Incremental temperature increases resulting from individual point source activities must not, at any time, exceed $28/(T+5)$ as measured at the edge of a mixing zone boundary (where "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge); and

(B) Incremental temperature increases resulting from the combined effect of all nonpoint source activities in the water body must not, at any time, exceed 2.8°C (5.04°F).

(iii) Temperatures are not to exceed the criteria at a probability frequency of more than once every ten years on average.

(iv) Spawning and incubation protection. Where the department determines the temperature criteria established for a water body would likely not result in protective spawning and incubation temperatures, the following criteria apply:

- Maximum 7-DADMax temperatures of 9°C (48.2°F) at the initiation of spawning and at fry emergence for char; and

- Maximum 7-DADMax temperatures of 13°C (55.4°F) at the initiation of spawning for salmon and at fry emergence for salmon and trout.

The two criteria above are protective of incubation as long as human actions do not significantly disrupt the normal patterns of fall cooling and spring warming that provide significantly colder temperatures over the majority of the incubation period. The department will maintain a list of waters where the single-summer maximum criterion is not sufficient to protect spawning and incubation.

(v) For lakes, human actions considered cumulatively may not increase the 7-DADMax temperature more than 0.3°C (0.54°F) above natural conditions.

(vi) Temperature measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should:

(A) Be taken from well mixed portions of rivers and streams; and

(B) Not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(vii) The department will incorporate the following guidelines on preventing acute lethality and barriers to migration of salmonids into determinations of compliance with the narrative requirements for use protection established in this chapter (e.g., WAC 173-201A-310(1), 173-201A-400(4), and 173-201A-410 (1)(c)). The following site-level considerations do not, however, override the temperature criteria established for waters in subsection (1)(c) of this section or WAC 173-201A-602:

(A) Moderately acclimated (16-20°C, or 60.8-68°F) adult and juvenile salmonids will generally be protected from acute lethality by discrete human actions maintaining the 7-DADMax temperature at or below 22°C (71.6°F) and the 1-day maximum (1-DMax) temperature at or below 23°C (73.4°F).

(B) Lethality to developing fish embryos can be expected to occur at a 1-DMax temperature greater than 17.5°C (63.5°F).

(C) To protect aquatic organisms, discharge plume temperatures must be maintained such that fish could not be entrained (based on plume time of travel) for more than two seconds at temperatures above 33°C (91.4°F) to avoid creating areas that will cause near instantaneous lethality.

(D) Barriers to adult salmonid migration are assumed to exist any time the 1-DMax temperature is greater than 22°C (71.6°F) and the adjacent downstream water temperatures are 3°C (5.4°F) or more cooler.

(viii) Nothing in this chapter shall be interpreted to prohibit the establishment of effluent limitations for the control of the thermal component of any discharge in accordance with 33 U.S.C. 1326 (commonly known as section 316 of the Clean Water Act).

(d) **Aquatic life dissolved oxygen (D.O.) criteria.** The D.O. criteria are measured in milligrams per liter (mg/L). Table 200 (1)(d) lists the 1-day minimum D.O. for each of the aquatic life use categories.

PERMANENT

Table 200 (1)(d)
Aquatic Life Dissolved Oxygen Criteria in Fresh Water

Category	Lowest 1-Day Minimum
Char	9.5 mg/L
Salmon and Trout Spawning, Core Rearing, and Migration	9.5 mg/L
Salmon and Trout Spawning, Noncore Rearing, and Migration	8.0 mg/L
Salmon and Trout Rearing and Migration Only	6.5 mg/L
Non-anadromous Interior Red-band Trout	8.0 mg/L
Indigenous Warm Water Species	6.5 mg/L

(i) When a water body's D.O. is lower than the criteria in Table 200 (1)(d) (or within 0.2 mg/L of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the D.O. of that water body to decrease more than 0.2 mg/L.

(ii) For lakes, human actions considered cumulatively may not decrease the dissolved oxygen concentration more than 0.2 mg/L below natural conditions.

(iii) Concentrations of D.O. are not to fall below the criteria in the table at a probability frequency of more than once every ten years on average.

(iv) D.O. measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should:

(A) Be taken from well mixed portions of rivers and streams; and

(B) Not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(e) **Aquatic life turbidity criteria.** Turbidity is measured in "nephelometric turbidity units" or "NTUs." Table 200 (1)(e) lists the maximum turbidity criteria for each of the aquatic life use categories.

Table 200 (1)(e)
Aquatic Life Turbidity Criteria in Fresh Water

Category	NTUs
Char	Turbidity shall not exceed: • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Salmon and Trout Spawning, Core Rearing, and Migration	Same as above.

Category	NTUs
Salmon and Trout Spawning, Noncore Rearing, and Migration	Same as above.
Salmon and Trout Rearing and Migration Only	Turbidity shall not exceed: • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.
Non-anadromous Interior Redband Trout	Turbidity shall not exceed: • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
Indigenous Warm Water Species	Turbidity shall not exceed: • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.

(i) The turbidity criteria established under WAC 173-201A-200 (1)(e) shall be modified, without specific written authorization from the department, to allow a temporary area of mixing during and immediately after necessary in-water construction activities that result in the disturbance of in-place sediments. This temporary area of mixing is subject to the constraints of WAC 173-201A-400 (4) and (6) and can occur only after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedances of the turbidity criteria. A temporary area of mixing shall be as follows:

(A) For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.

(B) For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.

(C) For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.

(D) For projects working within or along lakes, ponds, wetlands, estuaries, marine waters or other nonflowing waters, the point of compliance shall be at a radius of one

PERMANENT

hundred fifty feet from the activity causing the turbidity exceedance.

(f) **Aquatic life total dissolved gas (TDG) criteria.** TDG is measured in percent saturation. Table 200 (1)(f) lists the maximum TDG criteria for each of the aquatic life use categories.

Table 200 (1)(f)
Aquatic Life Total Dissolved Gas Criteria in Fresh Water

Category	Percent Saturation
Char	Total dissolved gas shall not exceed 110 percent of saturation at any point of sample collection.
Salmon and Trout Spawning, Core Rearing, and Migration	Same as above.
Salmon and Trout Spawning, Noncore Rearing, and Migration	Same as above.
Salmon and Trout Rearing and Migration Only	Same as above.
Non-anadromous Interior Redband Trout	Same as above.
Indigenous Warm Water Species	Same as above.

(i) The water quality criteria established in this chapter for TDG shall not apply when the stream flow exceeds the seven-day, ten-year frequency flood.

(ii) The TDG criteria may be adjusted to aid fish passage over hydroelectric dams when consistent with a department approved gas abatement plan. This plan must be accompanied by fisheries management and physical and biological monitoring plans. The elevated TDG levels are intended to allow increased fish passage without causing more harm to fish populations than caused by turbine fish passage. The following special fish passage exemptions for the Snake and Columbia rivers apply when spilling water at dams is necessary to aid fish passage:

- TDG must not exceed an average of one hundred fifteen percent as measured in the forebays of the next downstream dams and must not exceed an average of one hundred twenty percent as measured in the tailraces of each dam (these averages are measured as an average of the twelve highest consecutive hourly readings in any one day, relative to atmospheric pressure); and

- A maximum TDG one hour average of one hundred twenty-five percent must not be exceeded during spillage for fish passage.

(g) **Aquatic life pH criteria.** Measurement of pH is expressed as the negative logarithm of the hydrogen ion concentration. Table 200 (1)(g) lists the pH levels for each of the aquatic life use categories.

Table 200 (1) (g)
Aquatic Life pH Criteria in Fresh Water

Use Category	pH Units
Char	pH shall be within the range of 6.5 to 8.5, with a human-caused variation within the above range of less than 0.2 units.
Salmon and Trout Spawning, Core Rearing, and Migration	Same as above.
Salmon and Trout Spawning, Noncore Rearing, and Migration	pH shall be within the range of 6.5 to 8.5 with a human-caused variation within the above range of less than 0.5 units.
Salmon and Trout Rearing and Migration Only	Same as above.
Non-anadromous Interior Redband Trout	Same as above.
Indigenous Warm Water Species	Same as above.

(2) **Recreational uses.** The recreational uses are extraordinary primary contact recreation, primary contact recreation, and secondary contact recreation.

(a) **General criteria.** General criteria that apply to fresh water recreational uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(b) **Water contact recreation bacteria criteria.** Table 200 (2)(b) lists the bacteria criteria to protect water contact recreation in fresh waters.

Table 200 (2)(b)
Water Contact Recreation Bacteria Criteria in Fresh Water

Category	Bacteria Indicator
Extraordinary Primary Contact Recreation	Fecal coliform organism levels must not exceed a geometric mean value of 50 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 100 colonies/100 mL.

PERMANENT

Category	Bacteria Indicator
Primary Contact Recreation	Fecal coliform organism levels must not exceed a geometric mean value of 100 colonies /100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 200 colonies /100 mL.
Secondary Contact Recreation	Fecal coliform organism levels must not exceed a geometric mean value of 200 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 400 colonies /100 mL.

(i) When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.

(ii) When determining compliance with the bacteria criteria in or around small sensitive areas, such as swimming beaches, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating a geometric mean) to reduce sample variability and to create a single representative data point.

(iii) As determined necessary by the department, more stringent bacteria criteria may be established for rivers and streams that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the river or stream are being met.

(iv) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.

(3) **Water supply uses.** The water supply uses are domestic, agricultural, industrial, and stock watering.

General criteria. General criteria that apply to the water supply uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (a) Toxic, radioactive, and deleterious materials; and
- (b) Aesthetic values.

(4) **Miscellaneous uses.** The miscellaneous fresh water uses are wildlife habitat, harvesting, commerce and navigation, boating, and aesthetics.

General criteria. General criteria that apply to miscellaneous fresh water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (a) Toxic, radioactive, and deleterious materials; and
- (b) Aesthetic values.

NEW SECTION

WAC 173-201A-210 Marine water designated uses and criteria. The following uses are designated for protection in marine surface waters of the state of Washington. Use designations for specific water bodies are listed in WAC 173-201A-612.

(1) **Aquatic life uses.** Aquatic life uses are designated using the following general categories. It is required that all indigenous fish and nonfish aquatic species be protected in waters of the state.

(a) **The categories for aquatic life uses are:**

(i) **Extraordinary quality** salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(ii) **Excellent quality** salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(iii) **Good quality** salmonid migration and rearing; other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.

(iv) **Fair quality** salmonid and other fish migration.

(b) **General criteria.** General criteria that apply to aquatic life marine water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(c) **Aquatic life temperature criteria.** Except where noted, temperature is measured as a 1-day maximum temperature (1-DMax). Table 210 (1)(c) lists the temperature criteria for each of the aquatic life use categories.

Table 210 (1)(c)

Aquatic Life Temperature Criteria in Marine Water

Category	Highest 1-DMax
<i>Extraordinary quality</i>	13°C (55.4°F)
<i>Excellent quality</i>	16°C (60.8°F)
<i>Good quality</i>	19°C (66.2°F)
<i>Fair quality</i>	22°C (71.6°F)

(i) When a water body's temperature is warmer than the criteria in Table 210 (1)(c) (or within 0.3°C (0.54°F) of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the 7-DADMax temperature of that water body to increase more than 0.3°C (0.54°F).

PERMANENT

(ii) When the natural condition of the water is cooler than the criteria in Table 210 (1)(c), the allowable rate of warming up to, but not exceeding, the numeric criteria from human actions is restricted as follows:

(A) Incremental temperature increases resulting from individual point source activities must not, at any time, exceed $12/(T-2)$ as measured at the edge of a mixing zone boundary (where "T" represents the background temperature as measured at a point or points unaffected by the discharge and representative of the highest ambient water temperature in the vicinity of the discharge); and

(B) Incremental temperature increases resulting from the combined effect of all nonpoint source activities in the water body must not, at any time, exceed 2.8°C (5.04°F).

(iii) Temperatures are not to exceed the criteria at a probability frequency of more than once every ten years on average.

(iv) Temperature measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(v) The department will incorporate the following guidelines on preventing acute lethality and barriers to migration of salmonids into determinations of compliance with the narrative requirements for use protection established in this chapter (e.g., WAC 173-201A-310(1), 173-201A-400(4), and 173-201A-410 (1)(c)). The following site-level considerations do not, however, override the temperature criteria established for waters in subsection (1)(c) of this subsection or WAC 173-201A-612:

(A) Moderately acclimated (16-20°C, or 60.8-68°F) adult and juvenile salmonids will generally be protected from acute lethality by discrete human actions maintaining the 7-DADMax temperature at or below 22°C (71.6°F) and the 1-DMax temperature at or below 23°C (73.4°F).

(B) Lethality to developing fish embryos can be expected to occur at a 1-DMax temperature greater than 17.5°C (63.5°F).

(C) To protect aquatic organisms, discharge plume temperatures must be maintained such that fish could not be entrained (based on plume time of travel) for more than two seconds at temperatures above 33°C (91.4°F) to avoid creating areas that will cause near instantaneous lethality.

(D) Barriers to adult salmonid migration are assumed to exist any time the 1-DMax temperature is greater than 22°C (71.6°F) and the adjacent downstream water temperatures are 3°C (5.4°F) or more cooler.

(vi) Nothing in this chapter shall be interpreted to prohibit the establishment of effluent limitations for the control of the thermal component of any discharge in accordance with 33 U.S.C. 1326 (commonly known as section 316 of the Clean Water Act).

(d) **Aquatic life dissolved oxygen (D.O.) criteria.** Except where noted, D.O. concentrations are measured as a 1-day minimum in milligrams per liter. Table 210 (1)(d) lists the D.O. criteria for each of the aquatic life use categories.

Table 210 (1)(d)

Aquatic Life Dissolved Oxygen Criteria in Marine Water

Category	Lowest 1-Day Minimum
<i>Extraordinary quality</i>	7.0 mg/L
<i>Excellent quality</i>	6.0 mg/L
<i>Good quality</i>	5.0 mg/L
<i>Fair quality</i>	4.0 mg/L

(i) When a water body's D.O. is lower than the criteria in Table 210 (1)(d) (or within 0.2 mg/L of the criteria) and that condition is due to natural conditions, then human actions considered cumulatively may not cause the D.O. of that water body to decrease more than 0.2 mg/L.

(ii) Concentrations of D.O. are not to fall below the criteria in the table at a probability frequency of more than once every ten years on average.

(iii) D.O. measurements should be taken to represent the dominant aquatic habitat of the monitoring site. This typically means samples should not be taken from shallow stagnant backwater areas, within isolated thermal refuges, at the surface, or at the water's edge.

(e) **Aquatic life turbidity criteria.** Turbidity is measured in "nephelometric turbidity units" or "NTUs." Table 210 (1)(e) lists the one-day maximum turbidity allowed as a result of human actions for each of the aquatic life use categories.

Table 210 (1) (e)

Aquatic Life Turbidity Criteria in Marine Water

Category	NTUs
<i>Extraordinary quality</i>	Turbidity must not exceed: • 5 NTU over background when the background is 50 NTU or less; or • A 10 percent increase in turbidity when the background turbidity is more than 50 NTU.
<i>Excellent quality</i>	Same as above.
<i>Good quality</i>	Turbidity must not exceed: • 10 NTU over background when the background is 50 NTU or less; or • A 20 percent increase in turbidity when the background turbidity is more than 50 NTU.
<i>Fair quality</i>	Same as above.

(i) The turbidity criteria established under WAC 173-201A-210 (1)(e) shall be modified, without specific written authorization from the department, to allow a temporary area of mixing during and immediately after necessary in-water construction activities that result in the disturbance of in-

PERMANENT

place sediments. This temporary area of mixing is subject to the constraints of WAC 173-201A-400 (4) and (6) and can occur only after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedances of the turbidity criteria. A temporary area of mixing shall be as follows:

(A) For waters up to 10 cfs flow at the time of construction, the point of compliance shall be one hundred feet downstream from the activity causing the turbidity exceedance.

(B) For waters above 10 cfs up to 100 cfs flow at the time of construction, the point of compliance shall be two hundred feet downstream of the activity causing the turbidity exceedance.

(C) For waters above 100 cfs flow at the time of construction, the point of compliance shall be three hundred feet downstream of the activity causing the turbidity exceedance.

(D) For projects working within or along lakes, ponds, wetlands, estuaries, marine waters or other nonflowing waters, the point of compliance shall be at a radius of one hundred fifty feet from the activity causing the turbidity exceedance.

(f) **Aquatic life pH criteria.** Measurement of pH is expressed as the negative logarithm of the hydrogen ion concentration. Table 210 (1)(f) lists the pH levels allowed as a result of human actions for each of the aquatic life use categories.

**Table 210 (1)(f)
Aquatic Life pH Criteria in Marine Water**

Use Category	pH Units
<i>Extraordinary quality</i>	pH must be within the range of 7.0 to 8.5 with a human-caused variation within the above range of less than 0.2 units.
<i>Excellent quality</i>	pH must be within the range of 7.0 to 8.5 with a human-caused variation within the above range of less than 0.5 units.
<i>Good quality</i>	Same as above.
<i>Fair quality</i>	pH must be within the range of 6.5 to 9.0 with a human-caused variation within the above range of less than 0.5 units.

(2) Shellfish harvesting.

(a) **General criteria.** General criteria that apply to shellfish harvesting uses for marine water are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(b) **Shellfish harvesting bacteria criteria.** To protect shellfish harvesting, fecal coliform organism levels must not exceed a geometric mean value of 14 colonies/100 mL, and not have more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 43 colonies/100 mL.

(i) Shellfish growing areas approved for unconditional harvest by the state department of health are fully supporting the shellfish harvest goals of this chapter, even when comparison with the criteria contained in this chapter suggest otherwise.

(ii) When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.

(iii) When determining compliance with the bacteria criteria in or around small sensitive areas, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating a geometric mean) to reduce sample variability and to create a single representative data point.

(iv) As determined necessary by the department, more stringent bacteria criteria may be established for waters that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the water is being met.

(v) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.

(3) **Recreational uses.** The recreational uses are primary contact recreation and secondary contact recreation.

(a) **General criteria.** General criteria that apply to water contact uses for marine water are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (i) Toxic, radioactive, and deleterious materials; and
- (ii) Aesthetic values.

(b) **Water contact recreation bacteria criteria.** Table 210 (3)(b) lists the bacteria criteria to protect water contact recreation in marine water.

PERMANENT

Table 210 (3)(b)

Water Contact Recreation Bacteria Criteria in Marine Water

Category	Bacteria Indicator
Primary Contact Recreation	Fecal coliform organism levels must not exceed a geometric mean value of 14 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 41 colonies/100 mL.
Secondary Contact Recreation	Enterococci organism levels must not exceed a geometric mean value of 70 colonies/100 mL, with not more than 10 percent of all samples (or any single sample when less than ten sample points exist) obtained for calculating the geometric mean value exceeding 208 colonies/100 mL.

(i) When averaging bacteria sample data for comparison to the geometric mean criteria, it is preferable to average by season and include five or more data collection events within each period. Averaging of data collected beyond a thirty-day period, or beyond a specific discharge event under investigation, is not permitted when such averaging would skew the data set so as to mask noncompliance periods. The period of averaging should not exceed twelve months, and should have sample collection dates well distributed throughout the reporting period.

(ii) When determining compliance with the bacteria criteria in or around small sensitive areas, such as swimming beaches, it is recommended that multiple samples are taken throughout the area during each visit. Such multiple samples should be arithmetically averaged together (to reduce concerns with low bias when the data is later used in calculating a geometric mean) to reduce sample variability and to create a single representative data point.

(iii) As determined necessary by the department, more stringent bacteria criteria may be established for waters that cause, or significantly contribute to, the decertification or conditional certification of commercial or recreational shellfish harvest areas, even when the preassigned bacteria criteria for the water is being met.

(iv) Where information suggests that sample results are due primarily to sources other than warm-blooded animals (e.g., wood waste), alternative indicator criteria may be established on a site-specific basis by the department.

(4) **Miscellaneous uses.** The miscellaneous marine water uses are wildlife habitat, harvesting, commerce and navigation, boating, and aesthetics.

General criteria. General criteria that apply in miscellaneous marine water uses are described in WAC 173-201A-260 (2)(a) and (b), and are for:

- (a) Toxic, radioactive, and deleterious materials; and
- (b) Aesthetic values.

NEW SECTION

WAC 173-201A-230 Establishing lake nutrient criteria. (1) The following table shall be used to aid in establishing nutrient criteria:

(Table 230(1)) The ecoregional and trophic-state action values for establishing nutrient criteria:

Coast Range, Puget Lowlands, and Northern Rockies Ecoregions:			
Trophic State	If Ambient TP (µg/l) Range of Lake is:		Then criteria should be set at:
Ultra-oligotrophic	0-4		4 or less
Oligotrophic	>4-10		10 or less
Lower mesotrophic	>10-20		20 or less
	<u>Action value</u>		
	>20	...	lake specific study may be initiated.
Cascades Ecoregion:			
Trophic State	If Ambient TP (µg/l) Range of Lake is:		Then criteria should be set at:
Ultra-oligotrophic	0-4		4 or less
Oligotrophic	>4-10		10 or less
	<u>Action value</u>		
	>10	...	lake specific study may be initiated.
Columbia Basin Ecoregion:			
Trophic State	If Ambient TP (µg/l) Range of Lake is:		Then criteria should be set at:
Ultra-oligotrophic	0-4		4 or less
Oligotrophic	>4-10		10 or less
Lower mesotrophic	>10-20		20 or less
Upper mesotrophic	>20-35		35 or less
	<u>Action value</u>		
	>35	...	lake specific study may be initiated.

Lakes in the Willamette, East Cascade Foothills, or Blue Mountain ecoregions do not have recommended values and need to have lake-specific studies in order to receive criteria as described in subsection (3) of this section.

(2) The following actions are recommended if ambient monitoring of a lake shows the epilimnetic total phosphorus concentration, as shown in Table 1 of this section, is below the action value for an ecoregion:

(a) Determine trophic status from existing or newly gathered data. The recommended minimum sampling to determine trophic status is calculated as the mean of four or more samples collected from the epilimnion between June through September in one or more consecutive years. Sampling must be spread throughout the season.

(b) Propose criteria at or below the upper limit of the trophic state; or

(c) Conduct lake-specific study to determine and propose to adopt appropriate criteria as described in (c) of this subsection.

(3) The following actions are recommended if ambient monitoring of a lake shows total phosphorus to exceed the action value for an ecoregion shown in Table 1 of this section or where recommended ecoregional action values do not exist:

PERMANENT

(a) Conduct a lake-specific study to evaluate the characteristic uses of the lake. A lake-specific study may vary depending on the source or threat of impairment. Phytoplankton blooms, toxic phytoplankton, or excessive aquatic plants, are examples of various sources of impairment. The following are examples of quantitative measures that a study may describe: Total phosphorus, total nitrogen, chlorophyll-a, dissolved oxygen in the hypolimnion if thermally stratified, pH, hardness, or other measures of existing conditions and potential changes in any one of these parameters.

(b) Determine appropriate total phosphorus concentrations or other nutrient criteria to protect characteristic lake uses. If the existing total phosphorus concentration is protective of characteristic lake uses, then set criteria at existing total phosphorus concentration. If the existing total phosphorus concentration is not protective of the existing characteristic lake uses, then set criteria at a protective concentration. Proposals to adopt appropriate total phosphorus criteria to protect characteristic uses must be developed by considering technical information and stakeholder input as part of a public involvement process equivalent to the Administrative Procedure Act (chapter 34.05 RCW).

(c) Determine if the proposed total phosphorus criteria necessary to protect characteristic uses is achievable. If the recommended criterion is not achievable and if the characteristic use the criterion is intended to protect is not an existing use, then a higher criterion may be proposed in conformance with 40 CFR part 131.10.

(4) The department will consider proposed lake-specific nutrient criteria during any water quality standards rule making that follows development of a proposal. Adoption by rule formally establishes the criteria for that lake.

(5) Prioritization and investigation of lakes by the department will be initiated by listing problem lakes in a watershed needs assessment, and scheduled as part of the water quality program's watershed approach to pollution control. This prioritization will apply to lakes identified as warranting a criteria based on the results of a lake-specific study, to lakes warranting a lake-specific study for establishing criteria, and to lakes requiring restoration and pollution control measures due to exceedance of an established criterion. The adoption of nutrient criteria are generally not intended to apply to lakes or ponds with a surface area smaller than five acres; or to ponds wholly contained on private property owned and surrounded by a single landowner; and nutrients do not drain or leach from these lakes or private ponds to the detriment of other property owners or other water bodies; and do not impact designated uses in the lake. However, if the landowner proposes criteria the department may consider adoption.

(6) The department may not need to set a lake-specific criteria or further investigate a lake if existing water quality conditions are naturally poorer (higher TP) than the action value and uses have not been lost or degraded, per WAC 173-201A-260(1).

NEW SECTION

WAC 173-201A-260 Natural conditions and other water quality criteria and applications. (1) Natural and irreversible human conditions.

(a) It is recognized that portions of many water bodies cannot meet the assigned criteria due to the natural conditions of the water body. When a water body does not meet its assigned criteria due to natural climatic or landscape attributes, the natural conditions constitute the water quality criteria.

(b) When a water body does not meet its assigned criteria due to human structural changes that cannot be effectively remedied (as determined consistent with the federal regulations at 40 CFR 131.10), then alternative estimates of the attainable water quality conditions, plus any further allowances for human effects specified in this chapter for when natural conditions exceed the criteria, may be used to establish an alternative criteria for the water body (see WAC 173-201A-440).

(2) **Toxics and aesthetics criteria.** The following narrative criteria apply to all existing and designated uses for fresh and marine water:

(a) Toxic, radioactive, or deleterious material concentrations must be below those which have the potential, either singularly or cumulatively, to adversely affect characteristic water uses, cause acute or chronic conditions to the most sensitive biota dependent upon those waters, or adversely affect public health (see WAC 173-201A-240, toxic substances, and 173-201A-250, radioactive substances).

(b) Aesthetic values must not be impaired by the presence of materials or their effects, excluding those of natural origin, which offend the senses of sight, smell, touch, or taste (see WAC 173-201A-230 for guidance on establishing lake nutrient standards to protect aesthetics).

(3) **Procedures for applying water quality criteria.** In applying the appropriate water quality criteria for a water, the department will use the following procedure:

(a) The department will establish water quality requirements for water bodies, in addition to those specifically listed in this chapter, on a case-specific basis where determined necessary to provide full support for designated and existing uses.

(b) Upstream actions must be conducted in manners that meet downstream water body criteria. Except where and to the extent described otherwise in this chapter, the criteria associated with the most upstream uses designated for a water body are to be applied to headwaters to protect nonfish aquatic species and the designated downstream uses.

(c) Where multiple criteria for the same water quality parameter are assigned to a water body to protect different uses, the most stringent criterion for each parameter is to be applied.

(d) At the boundary between water bodies protected for different uses, the more stringent criteria apply.

(e) In brackish waters of estuaries, where different criteria for the same use occurs for fresh and marine waters, the decision to use the fresh water or the marine water criteria must be selected and applied on the basis of vertically averaged daily maximum salinity, referred to below as "salinity."

PERMANENT

(i) The fresh water criteria must be applied at any point where ninety-five percent of the salinity values are less than or equal to one part per thousand, except that the fresh water criteria for bacteria applies when the salinity is less than ten parts per thousand; and

(ii) The marine water criteria must apply at all other locations where the salinity values are greater than one part per thousand, except that the marine criteria for bacteria applies when the salinity is ten parts per thousand or greater.

(f) Numeric criteria established in this chapter are not intended for application to human created waters managed primarily for the removal or containment of pollution. This special provision also includes private farm ponds created from upland sites that did not incorporate natural water bodies.

(i) Waters covered under this provision must be managed so that:

(A) They do not create unreasonable risks to human health or uses of the water; and

(B) Discharges from these systems meet down gradient surface and ground water quality standards.

(ii) This provision does not apply to waterways designed and managed primarily to convey or transport water from one location to another, rather than to remove pollution en route.

(g) When applying the numeric criteria established in this chapter, the department will give consideration to the precision and accuracy of the sampling and analytical methods used, as well as the existing conditions at the time.

(h) The analytical testing methods for these numeric criteria must be in accordance with the "*Guidelines Establishing Test Procedures for the Analysis of Pollutants*" (40 CFR Part 136) or superseding methods published. The department may also approve other methods following consultation with adjacent states and with the approval of the USEPA.

(i) The primary means for protecting water quality in wetlands is through implementing the antidegradation procedures described in Part III of this chapter.

(i) In addition to designated uses, wetlands may have existing beneficial uses that are to be protected that include ground water exchange, shoreline stabilization, and storm water attenuation.

(ii) Water quality in wetlands is maintained and protected by maintaining the hydrologic conditions, hydrophytic vegetation, and substrate characteristics necessary to support existing and designated uses.

(iii) Wetlands must be delineated using the *Washington State Wetlands Identification and Delineation Manual*, in accordance with WAC 173-22-035.

PART III - ANTIDEGRADATION

NEW SECTION

WAC 173-201A-300 Description. (1) The antidegradation policy is guided by chapter 90.48 RCW, Water Pollution Control Act, chapter 90.54 RCW, Water Resources Act of 1971, and 40 CFR 131.12.

(2) The purpose of the antidegradation policy is to:

(a) Restore and maintain the highest possible quality of the surface waters of Washington;

(b) Describe situations under which water quality may be lowered from its current condition;

(c) Apply to human activities that are likely to have an impact on the water quality of a surface water;

(d) Ensure that all human activities that are likely to contribute to a lowering of water quality, at a minimum, apply all known, available, and reasonable methods of prevention, control, and treatment (AKART); and

(e) Apply three levels of protection for surface waters of the state, as generally described below:

(i) Tier I is used to ensure existing and designated uses are maintained and protected and applies to all waters and all sources of pollution.

(ii) Tier II is used to ensure that waters of a higher quality than the criteria assigned in this chapter are not degraded unless such lowering of water quality is necessary and in the overriding public interest. Tier II applies only to a specific list of polluting activities.

(iii) Tier III is used to prevent the degradation of waters formally listed in this chapter as "outstanding resource waters," and applies to all sources of pollution.

(3) **Habitat restoration.** Both temporary harm and permanent loss of existing uses may be allowed by the department where determined necessary to secure greater ecological benefits through major habitat restoration projects designed to return the natural physical structure and associated uses to a water body where the structure has been altered through human action.

NEW SECTION

WAC 173-201A-310 Tier I—Protection and maintenance of existing and designated uses. (1) Existing and designated uses must be maintained and protected. No degradation may be allowed that would interfere with, or become injurious to, existing or designated uses, except as provided for in this chapter.

(2) For waters that do not meet assigned criteria, or protect existing or designated uses, the department will take appropriate and definitive steps to bring the water quality back into compliance with the water quality standards.

(3) Whenever the natural conditions of a water body are of a lower quality than the assigned criteria, the natural conditions constitute the water quality criteria. Where water quality criteria are not met because of natural conditions, human actions are not allowed to further lower the water quality, except where explicitly allowed in this chapter.

NEW SECTION

WAC 173-201A-320 Tier II—Protection of waters of higher quality than the standards. (1) Whenever a water quality constituent is of a higher quality than a criterion designated for that water under this chapter, new or expanded actions within the categories identified in subsection (2) of this section that are expected to cause a measurable change in the quality of the water (see subsection (3) of this section)

may not be allowed unless the department determines that the lowering of water quality is necessary and in the overriding public interest (see subsection (4) of this section).

(2) A Tier II review will only be conducted for new or expanded actions conducted under the following authorizations. Public involvement with the Tier II review will be conducted in accordance with the public involvement processes associated with these actions.

(a) National Pollutant Discharge Elimination System (NPDES) waste discharge permits;

(b) State waste discharge permits to surface waters;

(c) Federal Clean Water Act Section 401 water quality certifications; and

(d) Other water pollution control programs authorized, implemented, or administered by the department.

(3) **Definition of measurable change.** To determine that a lowering of water quality is necessary and in the overriding public interest, an analysis must be conducted for new or expanded actions when the resulting action has the potential to cause a measurable change in the physical, chemical, or biological quality of a water body. Measurable changes will be determined based on an estimated change in water quality at a point outside the source area, after allowing for mixing consistent with WAC 173-201A-400(7). In the context of this regulation, a measurable change includes a:

(a) Temperature increase of 0.3°C or greater;

(b) Dissolved oxygen decrease of 0.2 mg/L or greater;

(c) Bacteria level increase of 2 cfu/100 mL or greater;

(d) pH change of 0.1 units or greater;

(e) Turbidity increase of 0.5 NTU or greater; or

(f) Any detectable increase in the concentration of a toxic or radioactive substance.

(4) **Necessary and overriding public interest determinations.** Once an activity has been determined to cause a measurable lowering in water quality, then an analysis must be conducted to determine if the lowering of water quality is necessary and in the overriding public interest. Information to conduct the analysis must be provided by the applicant seeking the authorization, or by the department in developing a general permit or pollution control program, and must include:

(a) A statement of the benefits and costs of the social, economic, and environmental effects associated with the lowering of water quality. This information will be used by the department to determine if the lowering of water quality is in the overriding public interest. Examples of information that can assist in this determination include:

(i) Economic benefits such as creating or expanding employment, increasing median family income, or increasing the community tax base;

(ii) Providing or contributing to necessary social services;

(iii) The use and demonstration of innovative pollution control and management approaches that would allow a significant improvement in AKART for a particular industry or category of action;

(iv) The prevention or remediation of environmental or public health threats;

(v) The societal and economic benefits of better health protection;

(vi) The preservation of assimilative capacity for future industry and development; and

(vii) The benefits associated with high water quality for uses such as fishing, recreation, and tourism.

(b) Information that identifies and selects the best combination of site, structural, and managerial approaches that can be feasibly implemented to prevent or minimize the lowering of water quality. This information will be used by the department to determine if the lowering of water quality is necessary. Examples that may be considered as alternatives include:

(i) Pollution prevention measures (such as changes in plant processes, source reduction, and substitution with less toxic substances);

(ii) Recycle/reuse of waste by-products or production materials and fluids;

(iii) Application of water conservation methods;

(iv) Alternative or enhanced treatment technology;

(v) Improved operation and maintenance of existing treatment systems;

(vi) Seasonal or controlled discharge options to avoid critical conditions of water quality;

(vii) Establishing buffer areas with effective limits on activities;

(viii) Land application or infiltration to capture pollutants and reduce surface runoff, on-site treatment, or alternative discharge locations;

(ix) Water quality offsets as described in WAC 173-201A-450.

(5) The department retains the discretion to require that the applicant examine specific alternatives, or that additional information be provided to conduct the analysis.

(6) General permit and water pollution control programs are developed for a category of dischargers that have similar processes and pollutants. New or reissued general permits or other water pollution control programs authorized, implemented, or administered by the department will undergo an analysis under Tier II at the time the department develops and approves the general permit or program.

(a) Individual activities covered under these general permits or programs will not require a Tier II analysis.

(b) The department will describe in writing how the general permit or control program meets the antidegradation requirements of this section.

(c) The department recognizes that many water quality protection programs and their associated control technologies are in a continual state of improvement and development. As a result, information regarding the existence, effectiveness, or costs of control practices for reducing pollution and meeting the water quality standards may be incomplete. In these instances, the antidegradation requirements of this section can be considered met for general permits and programs that have a formal process to select, develop, adopt, and refine control practices for protecting water quality and meeting the intent of this section. This adaptive process must:

(i) Ensure that information is developed and used expeditiously to revise permit or program requirements;

(ii) Review and refine management and control programs in cycles not to exceed five years or the period of permit reissuance; and

(iii) Include a plan that describes how information will be obtained and used to ensure full compliance with this chapter. The plan must be developed and documented in advance of permit or program approval under this section.

(7) All authorizations under this section must still comply with the provisions of Tier I (WAC 173-201A-310).

NEW SECTION

WAC 173-201A-330 Tier III—Protection of outstanding resource waters. Where a high quality water is designated as an outstanding resource water, the water quality and uses of those waters must be maintained and protected. As part of the public process, a qualifying water body may be designated as Tier III(A) which prohibits any and all future degradation, or Tier III(B) which allows for de minimis (below measurable amounts) degradation from well-controlled activities.

(1) To be eligible for designation as an outstanding resource water in Washington, one or more of the following must apply:

(a) The water is in a relatively pristine condition (largely absent human sources of degradation) or possesses exceptional water quality, and also occurs in federal and state parks, monuments, preserves, wildlife refuges, wilderness areas, marine sanctuaries, estuarine research reserves, or wild and scenic rivers;

(b) The water has unique aquatic habitat types (for example, peat bogs) that by conventional water quality parameters (such as dissolved oxygen, temperature, or sediment) are not considered high quality, but that are unique and regionally rare examples of their kind;

(c) The water has both high water quality and regionally unique recreational value;

(d) The water is of exceptional statewide ecological significance; or

(e) The water has cold water thermal refuges critical to the long-term protection of aquatic species. For this type of outstanding resource water, the nondegradation protection would apply only to temperature and dissolved oxygen.

(2) Any water or portion thereof that meets one or more of the conditions described in subsection (1) of this section may be designated for protection as an outstanding resource water. A request for designation may be made by the department or through public nominations that are submitted to the department in writing and that include sufficient information to show how the water body meets the appropriate conditions identified in this section.

(3) After receiving a request for outstanding resource water designation, the department will:

(a) Respond within sixty days of receipt with a decision on whether the submitted information demonstrates that the water body meets the eligibility requirements for an outstanding resource water. If the submitted information demonstrates that the water body meets the eligibility requirements, the department will schedule a review of the nominated water for designation as an outstanding resource water. The review

will include a public process and consultation with recognized tribes in the geographic vicinity of the water.

(b) In determining whether or not to designate an outstanding resource water, the department will consider factors relating to the difficulty of maintaining the current quality of the water body. Outstanding resource waters should not be designated where substantial and imminent social or economic impact to the local community will occur, unless local public support is overwhelmingly in favor of the designation. The department will carefully weigh the level of support from the public and affected governments in assessing whether or not to designate the water as an outstanding resource water.

(c) After considering public comments and weighing public support for the proposal, the department will make a final determination on whether a nominated water body should be adopted into this chapter as an outstanding resource water.

(4) A designated outstanding resource water will be maintained and protected from all degradation, except for the following situations:

(a) Temporary actions that are necessary to protect the public interest as approved by the department.

(b) Treatment works bypasses for sewage, waste, and stormwater are allowed where such a bypass is unavoidable to prevent the loss of life, personal injury, or severe property damage, and no feasible alternatives to the bypass exist.

(c) Response actions taken in accordance with the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, or similar federal or state authorities, to alleviate a release into the environment of substances which may pose an imminent and substantial danger to public health or welfare.

(d) The sources of degradation are from atmospheric deposition.

(5) Outstanding resource waters can be designated for either Tier III(A) or Tier III(B) protection.

(a) Tier III(A) is the highest level of protection and allows no further degradation after the waters have been formally designated Tier III(A) under this chapter.

(b) Tier III(B) is the second highest level of protection for outstanding resource waters and conditionally allows minor degradation to occur due to highly controlled actions. The requirements for Tier III(B) are as follows:

(i) To meet the goal for maintaining and protecting the quality of Tier III(B) waters, sources of pollution, considered individually and cumulatively, are not to cause measurable degradation of the water body.

(ii) Regardless of the quality of the water body, all new or expanded point sources of pollution in Tier III(B) waters must use applicable advanced waste treatment and control techniques that reasonably represent the state of the art and must minimize the degradation of water quality to nonmeasurable levels where total elimination is not feasible. Non-point sources must use all applicable structural and nonstructural BMPs with the goal of reducing the degradation of water quality to nonmeasurable levels where total elimination is not feasible.

PART IV - TOOLS FOR APPLICATION OF CRITERIA AND USES

NEW SECTION

WAC 173-201A-420 Variance. (1) The criteria established in WAC 173-201A-200 through 173-201A-260 may be modified for individual facilities, or stretches of waters, through the use of a variance. Variances may be approved by the department when:

(a) The modification is consistent with the requirements of federal law (currently 40 CFR 131.10(g) and 131.10(h));

(b) The water body is assigned variances for specific criteria and all other applicable criteria must be met; and

(c) Reasonable progress is being made toward meeting the original criteria.

(2) The decision to approve a variance is subject to a public and intergovernmental involvement process.

(3) The department may issue a variance for up to five years, and may renew the variance after providing for another opportunity for public and intergovernmental involvement and review.

(4) Variances are not in effect until they have been incorporated into this chapter and approved by the USEPA.

NEW SECTION

WAC 173-201A-430 Site-specific criteria. (1) Where the attainable condition of existing and designated uses for the water body would be fully protected using an alternative criterion, site-specific criteria may be adopted.

(a) The site-specific criterion must be consistent with the federal regulations on designating and protecting uses (currently 40 CFR 131.10 and 131.11); and

(b) The decision to approve a site-specific criterion must be subject to a public involvement and intergovernmental coordination process.

(2) The site-specific analyses for the development of a new water quality criterion must be conducted in a manner that is scientifically justifiable and consistent with the assumptions and rationale in "*Guidelines for Deriving National Water Quality Criteria for the Protection of Aquatic Organisms and their Uses*," EPA 1985; and conducted in accordance with the procedures established in the "*Water Quality Standards Handbook*," EPA 1994, as revised.

(3) The decision to approve the site-specific criterion must be based on a demonstration that it will protect the existing and attainable uses of the water body.

(4) Site-specific criteria are not in effect until they have been incorporated into this chapter and approved by the USEPA.

NEW SECTION

WAC 173-201A-440 Use attainability analysis. (1) Removal of a designated use for a water body assigned in this chapter must be based on a use attainability analysis (UAA). A UAA is a structured scientific assessment of the factors affecting the attainment of the use which may include physi-

cal, chemical, biological, and economic factors. A use can only be removed through a UAA if it is not existing or attainable.

(2) A UAA proposing to remove a designated use on a water body must be submitted to the department in writing and include sufficient information to demonstrate that the use is neither existing nor attainable.

(3) A UAA must be consistent with the federal regulations on designating and protecting uses (currently 40 CFR 131.10).

(4) Subcategories of use protection that reflect the lower physical potential of the water body for protecting designated uses must be based upon federal regulations (currently 40 CFR 131.10(c)).

(5) Allowing for seasonal uses where doing so would not harm existing or designated uses occurring in that or another season must be based upon federal regulations (currently 40 CFR 131.10(f)).

(6) After receiving a proposed UAA, the department will respond within sixty days of receipt with a decision on whether to proceed toward rule making.

(7) The decision to approve a UAA is subject to a public involvement and intergovernmental coordination process, including tribal consultation.

(8) The department will maintain a list of federally recognized tribes in the state of Washington. During all stages of development and review of UAA proposals, the department will provide notice and consult with representatives of the interested affected Indian tribes on a government-to-government basis, and carefully consider their recommendations.

(9) The results of a UAA are not in effect until they have been incorporated into this chapter and approved by the USEPA.

NEW SECTION

WAC 173-201A-450 Water quality offsets. (1) A water quality offset occurs where a project proponent implements or finances the implementation of controls for point or nonpoint sources to reduce the levels of pollution for the purpose of creating sufficient assimilative capacity to allow new or expanded discharges. The purpose of water quality offsets is to sufficiently reduce the pollution levels of a water body so that a proponent's actions do not cause or contribute to a violation of the requirements of this chapter and so that they result in a net environmental benefit. Water quality offsets may be used to assist an entity in meeting load allocations targeted under a pollution reduction analysis (such as a total maximum daily load) as established by the department. Water quality offsets may be used to reduce the water quality effect of a discharge to levels that are unmeasurable and in compliance with the water quality antidegradation Tier II analysis (WAC 173-201A-320).

(2) Water quality offsets may be allowed by the department when all of the following conditions are met:

(a) Water quality offsets must target specific water quality parameters.

(b) The improvements in water quality associated with creating water quality offsets for any proposed new or

expanded actions must be demonstrated to have occurred in advance of the proposed action.

(c) The technical basis and methodology for the water quality offsets is documented through a technical analysis of pollutant loading, and that analysis is made available for review by the department. The methodology must incorporate the uncertainties associated with any proposed point or nonpoint source controls as well as variability in effluent quality for sources, and must demonstrate that an appropriate margin of safety is included. The approach must clearly account for the attenuation of the benefits of pollution controls as the water moves to the location where the offset is needed.

(d) Point or nonpoint source pollution controls must be secured using binding legal instruments between any involved parties for the life of the project that is being offset. The proponent remains solely responsible for ensuring the success of offsetting activities for both compliance and enforcement purposes.

(e) Only the proportion of the pollution controls which occurs beyond existing requirements for those sources can be included in the offset allowance.

(f) Water quality offsets must meet antidegradation requirements in WAC 173-201A-300 through 173-201A-330 and federal antidegradation requirements in CFR 122.44(l).

PART V - IMPLEMENTATION OF STANDARDS

PART VI - USE DESIGNATIONS FOR WATERS OF THE STATE

NEW SECTION

WAC 173-201A-600 Use designations—Fresh waters. (1) All surface waters of the state not named in Table 602 are to be protected for the designated uses of: Salmon and trout spawning, noncore rearing, and migration; primary contact recreation; domestic, industrial, and agricultural water supply; stock watering; wildlife habitat; harvesting; commerce and navigation; boating; and aesthetic values.

(a) Additionally, the following waters are also to be protected for the designated uses of salmon and trout spawning, core rearing, and migration; and extraordinary primary contact recreation:

(i) All surface waters lying within national parks, national forests, and/or wilderness areas;

(ii) All lakes and all feeder streams to lakes (reservoirs with a mean detention time greater than fifteen days are to be treated as a lake for use designation);

(iii) All surface waters that are tributaries to waters designated salmon and trout spawning, core rearing, and migration; or extraordinary primary contact recreation; and

(iv) All fresh surface waters that are tributaries to extraordinary quality marine waters (WAC 173-201A-610 through 173-201A-612).

(2) The water quality standards for surface waters for the state of Washington do not apply to segments of waters listed in Table 602 that are on Indian reservations.

Table 600 (Key to Table 602)

Abbreviation	General Description
Aquatic Life Uses:	(see WAC 173-201A-200(1))
Char	Char. For the protection of spawning and early tributary rearing (e.g., first year juveniles) of native char (bull trout and Dolly Varden), and other associated aquatic life.
Core Salmon/Trout	Salmon and trout spawning, core rearing, and migration. For the protection of spawning, core rearing, and migration of salmon and trout, and other associated aquatic life.
Noncore Salmon/Trout	Salmon and trout spawning, noncore rearing, and migration. For the protection of spawning, noncore rearing, and migration of salmon and trout, and other associated aquatic life.
Salmon/Trout Rearing	Salmon and trout rearing and migration only. For the protection of rearing and migration of salmon and trout, and other associated aquatic life.
Redband Trout	Non-anadromous interior redband trout. For the protection of waters where the only trout species is a non-anadromous form of self-reproducing interior redband trout (<i>O. mykiss</i>), and other associated aquatic life.
Warm Water Species	Indigenous warm water species. For the protection of waters where the dominant species under natural conditions would be temperature tolerant indigenous non-salmonid species. Examples include dace, redband shiner, chiselmouth, sucker, and northern pikeminnow.
Recreational Uses:	(see WAC 173-201A-200(2))
Extraordinary Primary Cont.	Extraordinary quality primary contact waters. Waters providing extraordinary protection against waterborne disease or that serve as tributaries to extraordinary quality shellfish harvesting areas.

PERMANENT

Table 600 (Key to Table 602)

Abbreviation	General Description
Primary Cont.	Primary contact recreation.
Secondary Cont.	Secondary contact recreation.
Water Supply Uses:	(see WAC 173-201A-200(3))
Domestic Water	Domestic water supply.
Industrial Water	Industrial water supply.
Agricultural Water	Agricultural water supply.
Stock Water	Stock watering.
Miscellaneous Uses:	(see WAC 173-201A-200(4))
Wildlife Habitat	Wildlife habitat.
Harvesting	Fish harvesting.
Commerce/Navigation	Commerce and navigation.
Boating	Boating.
Aesthetics	Aesthetic values.

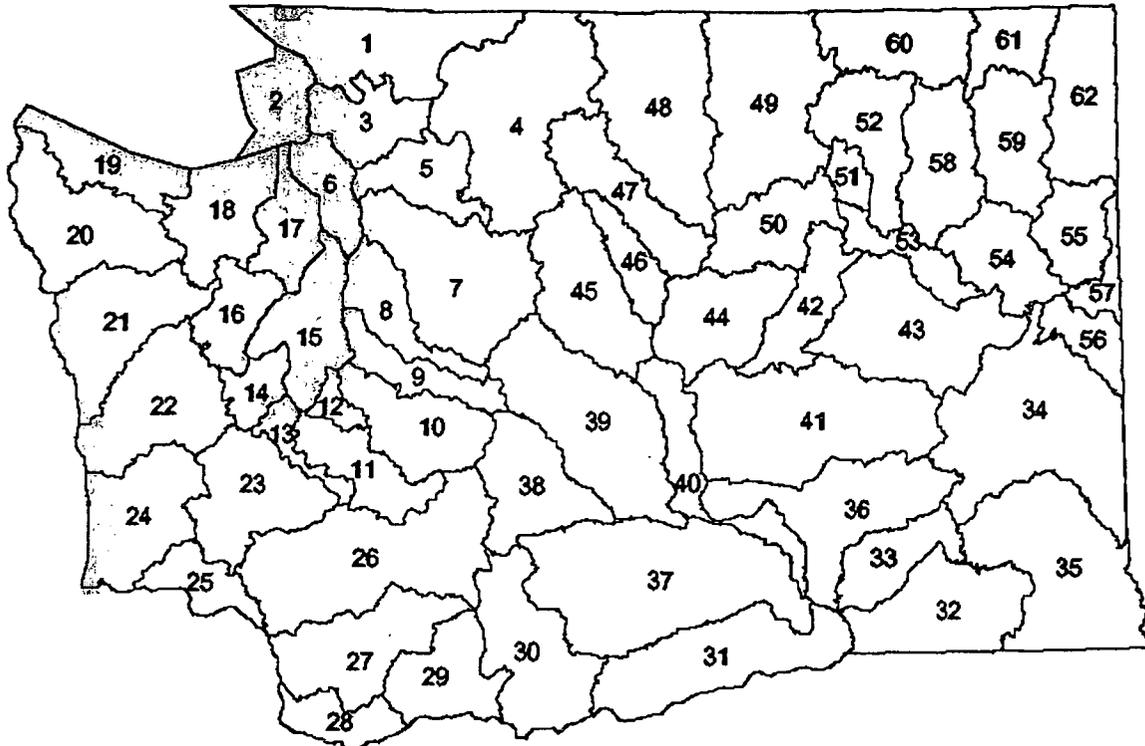
NEW SECTION

WAC 173-201A-602 Table 602—Use designations for fresh waters by water resource inventory area (WRIA). (1) Table 602 lists uses for fresh waters. The Columbia River is listed first, followed by other water bodies listed by WRIA. Only the uses with the most stringent criteria are listed. The criteria notes in Table 602 take precedence over the criteria in WAC 173-201A-200 for same parameter.

(2) Table 602 is necessary to determine and fully comply with the requirements of this chapter. If you are viewing a paper copy of the rule from the office of the code reviser or are using their website, Table 602 may be missing (it will instead say "place illustration here"). In this situation, you may view Table 602 at the department of ecology's website at www.ecy.wa.gov, or request a paper copy of the rule with Table 602 from the department of ecology or the office of the code reviser.

PERMANENT

Illustration 1: Water Resources Inventory Area Map



PERMANENT

Key:			
1. Nooksack	21. Queets/Quinalt	41. Lower Crab	61. Upper Lake Roosevelt
2. San Juan	22. Lower Chehalis	42. Grand Coulee	62. Pend Oreille
3. Lower Skagit/Samish	23. Upper Chehalis	43. Upper Crab/Wilson	
4. Upper Skagit	24. Willapa	44. Moses Coulee	
5. Stillaguamish	25. Grays/Elochoman	45. Wenatchee	
6. Island	26. Cowlitz	46. Entiat	
7. Snohomish	27. Lewis	47. Chelan	
8. Cedar/Sammamish	28. Salmon/Washougal	48. Methow	
9. Duwamish/Green	29. Wind/White Salmon	49. Okanogan	
10. Puyallup/White	30. Klickitat	50. Foster	
11. Nisqually	31. Rock/Glade	51. Nespelem	
12. Chambers/Clover	32. Walla Walla	52. Sanpoil	
13. Deschutes	33. Lower Snake	53. Lower Lake Roosevelt	
14. Kennedy/Goldsborough	34. Palouse	54. Lower Spokane	
15. Kitsap	35. Middle Snake	55. Little Spokane	
16. Skokomish/ Dosewallips	36. Esquatzel Coulee	56. Hangman	
17. Quilcene/Snow	37. Lower Yakima	57. Middle Spokane	
18. Elwha/Dungeness	38. Naches	58. Middle Lake Roosevelt	
19. Lyre/Hoko	39. Upper Yakima	59. Colville	
20. Soleduck/Hoh	40. Alkaki/Squilchuck	60. Kettle	

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Nooksack River, South Fork, from mouth to Skookum Creek (river mile 14.3).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River, South Fork, from Skookum Creek (river mile 14.3) to Fobes Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Nooksack River, South Fork, and all tributaries above the junction with Fobes Creek.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Silesia Creek and all tributaries south of Canadian border.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skookum Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sumas River from Canadian border (river mile 12) to headwaters (river mile 23).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 2 San Juan																		
There are no specific waterbody entries for this WRIA.																		
WRIA 3 Lower Skagit-Samish																		
Nookachamps Creek, East Fork, and unnamed creek at longitude -122.1657 and latitude 48.4103: All waters (including tributaries) above the junction.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Skagit River from mouth to Skiyou Slough-lower end (river mile 25.6).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Skagit River and tributaries from Skiyou Slough-lower end, (river mile 25.6) to the boundary of WRIA 3 and 4, except the other waters listed for this WRIA. ¹		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Walker Creek and unnamed creek at longitude -122.1639 and latitude 48.3813: All waters (including tributaries) above the junction.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 3:																		
1. Skagit River (Gorge by-pass reach) from Gorge Dam (river mile 96.6) to Gorge Powerhouse (river mile 94.2). Temperature shall not exceed a 1-DMax of 21°C due to human activities. When natural conditions exceed a 1-DMax of 21°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.																		
WRIA 4 Upper Skagit																		
Bacon Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Baker Lake and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Bear Creek and the unnamed outlet creek of Blue Lake: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses						Recreational Uses			Water Supply Uses				Misc. Uses				
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Thunder Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
White Chuck River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 4:																		
1. Skagit River (Gorge by-pass reach) from Gorge Dam (river mile 96.6) to Gorge Powerhouse (river mile 94.2). Temperature shall not exceed a 1-DMax of 21°C due to human action. When natural conditions exceed a 1-DMax of 21°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C, nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.																		
WRIA 5 Stillaguamish																		
Brooks Creek and the unnamed tributary at longitude -121.9031 and latitude 48.2967: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Canyon Creek's unnamed tributaries at longitude -121.9635 and latitude 48.1461.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Canyon Creek, North Fork, and South Fork Canyon Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Crane Creek and the unnamed tributary at longitude - 122.1030 and latitude 48.3315: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Crane Creek's unnamed tributaries at longitude -122.0988 and latitude 48.3332.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cub Creek and the unnamed tributary at longitude -121.9376 and latitude 48.1655: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Deer Creek and the unnamed tributary at longitude -121.9565 and latitude 48.3195: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Dicks Creek and unnamed outlet of Myrtle Lake at longitude -121.8129 and 48.3187: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Jim Creek and Little Jim Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pilchuck Creek and Bear Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pilchuck Creek's unnamed tributaries at longitude -122.1305 and latitude 48.3104.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River from mouth to north and south forks (river mile 17.8).			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillaguamish River, North Fork, from mouth to Boulder River.			✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓



TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Pilchuck River from city of Snohomish Waterworks Dam (river mile 26.8) to Boulder Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pilchuck River and Boulder Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pratt River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skykomish River from mouth to May Creek (above Gold Bar at river mile 41.2).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Skykomish River above May Creek (above Gold Bar at river mile 41.2).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skykomish River, North Fork, and Salmon Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snohomish River from mouth and east of longitude 122°13'40"W upstream to latitude 47°56'30"N (southern tip of Ebey Island at river mile 8.1). ¹			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Snohomish River upstream from latitude 47°56'30"N (southern tip of Ebey Island river mile 8.1) to confluence with Skykomish and Snoqualmie River (river mile 20.5).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River and tributaries from mouth to west boundary of Twin Falls State Park on south fork (river mile 9.1).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, South Fork, from west boundary of Twin Falls State Park (river mile 9.1) to headwaters.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, North Fork, from mouth to Sunday Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, North Fork, and Sunday Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, Middle Fork, from mouth to Dingford Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River, Middle Fork, and Dingford Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Snoqualmie River's Middle Fork's unnamed tributaries at longitude -121.5629 and latitude 47.5389.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sultan River from mouth to Chaplain Creek (river mile 5.9).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Sultan River and tributaries from Chaplain Creek (river mile 5.9) to headwaters. ²		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓



TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Cedar River at Chester Morse Lake and all tributaries. ²	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Holder Creek and the unnamed tributary at longitude -121.9496 and latitude 47.4581: All waters (including tributaries) above the junction.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Issaquah Creek.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Lake Washington Ship Canal from Government Locks (river mile 1.0) to Lake Washington (river mile 8.6). ³		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 8:																		
1. No waste discharge will be permitted.																		
2. No waste discharge will be permitted.																		
3. Salinity shall not exceed one part per thousand (1.0 ppt) at any point or depth along a line that transects the ship canal at the University Bridge (river mile 6.1).																		
WRIA 9 Duwamish-Green																		
Duwamish River from mouth south of a line bearing 254° true from the NW corner of berth 3, terminal No. 37 to the Black River (river mile 11.0) (Duwamish River continues as the Green River above the Black River).				✓					✓		✓	✓	✓	✓	✓	✓	✓	✓
Green River from Black River (river mile 11.0 and point where Duwamish River continues as the Green River) to west boundary of Sec. 27-T21N-R6E (west boundary of Flaming Geyser State Park at river mile 42.3).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Green River from west boundary of Sec. 27-T21N-R6E (west boundary of Flaming Geyser State Park, river mile 42.3) to west boundary of Sec. 13-T21N-R7E (river mile 59.1).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Green River and tributaries from west boundary of Sec. 13-T21N-R7E (river mile 59.1) to headwaters, except for the waters specifically listed in this table: Green River and Sunday Creek, and Smay Creek. ¹		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Green River and Sunday Creek: All waters (including tributaries) above the junction. ¹	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Smay Creek and West Fork Smay Creek: All waters (including tributaries) above the junction. ¹	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓



TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
White River and Huckleberry Creek: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
White River, West Fork, and Viola Creek: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Wilkeson Creek and Gale Creek: All waters (including tributaries) above the junction, except those waters in or above the Snoqualmie National Forest.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Wilkeson Creek and Gale Creek: All waters (including tributaries) above the junction that are in or above the Snoqualmie National Forest.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 11 Nisqually																		
Big Creek and all tributaries.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Copper Creek and all tributaries.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
East Creek and all tributaries.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Nisqually River and all tributaries.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Mashel River and Little Mashel River: All waters (including tributaries) above the junction.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Mineral Creek and all tributaries.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nisqually River from mouth to Alder Dam (river mile 44.2).			✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nisqually River from Alder Dam (river mile 44.2) to Tahoma Creek.		✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nisqually River and Tahoma Creek: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 12 Chambers-Clover																		
Clover Creek from outlet of Lake Spanaway to inlet of Lake Steilacoom.			✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 13 Deschutes																		
Deschutes River from mouth to boundary of Snoqualmie National Forest (river mile 48.2).			✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Deschutes River from boundary of Snoqualmie National Forest (river mile 48.2) to headwaters.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 14 Kennedy-Goldsborough																		
There are no specific waterbody entries for this WRIA.																		
WRIA 15 Kitsap																		
Union River and tributaries from Bremerton Waterworks Dam (river mile 6.9) to headwaters. ¹		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 15:																		
1. No waste discharge will be permitted.																		
WRIA 16 Skokomish-Dosewallips																		
Brown Creek and the unnamed tributary at longitude -123.2857 and latitude 47.4264: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Dosewallips River and tributaries.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Duckabush River and tributaries.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Hamma Hamma River and tributaries.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Lebar Creek and the unnamed tributary at longitude -123.3087 and latitude 47.4416: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Rock Creek and the unnamed tributary at longitude -123.3496 and latitude 47.3894: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skokomish River and tributaries, except for the waters specifically listed in this table: Brown Creek, Lebar Creek, Rock Creek, North Fork Skokomish River, South Fork Skokomish River, and Vance Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skokomish River, North Fork, and all tributaries above Lake Cushman Upper Dam.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skokomish River, South Fork, and Cedar Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Vance Creek and Cabin Creek all waters above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
WRIA 17 Quilcene-Snow																		
Big Quilcene River and tributaries.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 18 Elwha-Dungeness																		
Boulder Creek and Deep Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cat Creek and the unnamed tributary at longitude -123.6423 and latitude 47.9461: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Dungeness River from mouth to Canyon Creek (river mile 10.8).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Dungeness River and tributaries from Canyon Creek (river mile 10.8) to Gray Wolf River.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Dungeness River and Gray Wolf River: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Elwha River and tributaries from mouth to Godkin Creek, except for the waters specifically listed in this table: Boulder Creek, Cat Creek, Goldie River, Griff Creek, Hayes River, Hughes Creek, Lillian River, Little River, Long Creek, Lost River, and Wolf Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Elwha River and Godkin Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Goldie River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Griff Creek and the unnamed tributary at longitude -123.5440 and latitude 48.0135: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Hayes River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Hughes Creek and the unnamed tributary at longitude -123.6322 and latitude 48.0298: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Lillian River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Little River and South Branch Little River: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Long Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Queets River and tributaries from mouth to the unnamed tributary at longitude - 123.7864 and latitude 47.6951, except for the waters specifically listed in this table: Middle Fork Salmon River, Matheny Creek, Sams River, and Tshletshy Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Queets River and the unnamed tributary at longitude -123.7864 and latitude 47.6951: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Quinault River and tributaries from mouth to the unnamed tributary at longitude - 123.5450 and latitude 47.5960 except for all waters above the junction of Graves Creek and Litchy Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Quinault River and the unnamed tributary at longitude -123.5450 and latitude 47.5960: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Quinault River, North Fork, and Rustler Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Salmon River, Middle Fork, and the unnamed tributary at longitude -123.9899 and latitude 47.5208: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sams River and the unnamed tributary at longitude -123.8941 and latitude 47.6059: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sollecks River and the unnamed tributary at longitude -124.0133 and latitude 47.6937: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stequaleho Creek and the unnamed tributary at longitude -124.0426 and latitude 47.6620: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tshletshy Creek and the unnamed tributary at longitude -123.8668 and latitude 47.6585: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 22 Lower Chehalis																		
Baker Creek and the unnamed tributary at longitude -123.4142 and latitude 47.3301: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Big Creek and Middle Fork Big Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Satsop River, Middle Fork, from mouth to the unnamed tributary at longitude -123.4451 and latitude 47.3340.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Satsop River, Middle Fork, and the unnamed tributary at longitude -123.4451 and latitude 47.3340: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Satsop River, East Fork.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wishkah River from mouth to river mile 6 (SW 1/4 SW 1/4 NE 1/4 Sec. 21-T18N-R9W).				✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Wishkah River from river mile 6 (SW 1/4 SW 1/4 NE 1/4 Sec. 21-T18N-R9W) to west fork (river mile 17.7).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Wishkah River from west fork of Wishkah River (river mile 17.7) to south boundary of Sec. 33-T21N-R8W (river mile 32.0).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wishkah River and tributaries from south boundary of Sec. 33-T21N-R8W (river mile 32.0) to headwaters. ¹		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wynoochee River from mouth to Olympic National Forest boundary (river mile 45.9).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Wynoochee River from Olympic National Forest boundary (river mile 45.9) to Wynoochee Dam.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wynoochee River and all tributaries above Wynoochee Dam.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 22:																		
1. No waste discharge will be permitted.																		
WRIA 23 Upper Chehalis																		
Chehalis River from upper boundary of Grays Harbor at Cosmopolis (river mile 3.1, longitude 123°45'45"W) to Scammon Creek (river mile 65.8).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Chehalis River from Scammon Creek (river mile 65.8) to Newaukum River (river mile 75.2). ¹			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Chehalis River from Newaukum River (river mile 75.2) to Rock Creek (river mile 106.7).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Pheeny Creek and the unnamed tributary at longitude -122.6276 and latitude 46.7836: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Rock Creek and the unnamed tributary at longitude -123.3782 and latitude 46.5279: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Seven Creek and the unnamed tributary at longitude -123.3723 and latitude 46.6192: All waters (including tributaries) above the junction.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Skookumchuck River from Bloody Run Creek (river mile 21.4) to Hospital Creek.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skookumchuck River and Hospital Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Skookumchuck Reservoir's unnamed southern tributaries at longitude -122.6728 and latitude 46.7671.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stillman Creek and Little Mill Creek: All waters (including tributaries) above the junction.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Thrash Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wildcat Creek.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 23:																		
1. Dissolved oxygen shall exceed 5.0 mg/L from June 1 to September 15. For the remainder of the year, the dissolved oxygen shall meet standard criteria.																		
2. Dissolved oxygen shall exceed 6.5 mg/L.																		
WRIA 24 Willapa																		
Naselle River from Naselle "Falls" (cascade at river mile 18.6) to headwaters.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Willapa River upstream of a line bearing 70° true through Mailboat Slough light (river mile 1.8).			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 25 Grays-Elokoman																		
Elochoman River.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Grays River from Grays River Falls (river mile 15.8) to headwaters.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓



TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Pine Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Quartz Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Rush Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Spencer Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Steamboat Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tillicum Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 28 Salmon-Washougal																		
Burnt Bridge Creek.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Salmon Creek.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 29 Wind-White Salmon																		
Buck Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Gilmer Creek and all tributaries.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Gotchen Creek and all tributaries, except those waters in or above the Gifford Pinchot National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Gotchen Creek and all tributaries that are in or above the Gifford Pinchot National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Green Canyon Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Morrison Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Rattlesnake Creek and the unnamed tributary at longitude -121.4081 and latitude 45.8512: All waters (including tributaries) above the junction.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Trout Lake Creek and all tributaries below Trout Lake.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Trout Lake Creek and all tributaries at and above Trout Lake.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
White Salmon River's unnamed tributaries at longitude -121.4991 and latitude 46.0055, except those waters in or above the Gifford Pinchot National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
White Salmon River's unnamed tributaries at longitude -121.4991 and latitude 46.0055 that are in or above the Gifford Pinchot National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

[117]

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TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
White Salmon River and Cascade Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 30 Klickitat																		
Clearwater Creek and Trappers Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Cougar Creek and Big Muddy Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Diamond Creek and Caitin Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Diamond Fork's unnamed tributaries at longitude -121.1562 and latitude 46.4205.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Diamond Fork's unnamed tributaries at longitude -121.1590 and latitude 46.4355 (outlet of Maiden Springs).	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Fish Lake Stream and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Frasier Creek and Outlet Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Klickitat River from Little Klickitat River (river mile 19.8) to Diamond Fork.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Klickitat River and all tributaries above the junction with Diamond Fork.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Muddy Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
McCreeley Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 31 Rock-Glade																		
There are no specific waterbody entries for this WRIA.																		
WRIA 32 Walla Walla																		
Blue Creek and the unnamed tributary at longitude -118.0956 and latitude 46.0579: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek from mouth to 13th Street Bridge in Walla Walla (river mile 6.4). ¹			✓						✓		✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek from 13th Street Bridge in Walla Walla (river mile 6.4) to Walla Walla Waterworks Dam (river mile 11.5).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓

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	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Mill Creek and Railroad Canyon: All waters (including tributaries) above the junction up to city of Walla Walla Waterworks Dam (river mile 21.6).	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Mill Creek and tributaries from city of Walla Walla Waterworks Dam (river mile 21.6) to headwaters (including upstream and downstream of where Mill Creek flows into Oregon). ²	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Rodgers Gulch and the unnamed tributary at longitude -117.8667 and latitude 46.2705: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Touchet River, North Fork, from Dayton water intake structure (river mile 3.0) to Gates Gulch.		✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Touchet River, North Fork, and Gates Gulch: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Touchet River, South Fork, and the unnamed tributary at longitude -117.9397 and latitude 46.2307: All waters (including tributaries) above the junction, except those waters in or above the Umatilla National Forest.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Touchet River, South Fork, and the unnamed tributary at longitude -117.9397 and latitude 46.2307: All waters (including tributaries) above the junction that are in or above the Umatilla National Forest.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Walla Walla River from mouth to Lowden (Dry Creek at river mile 27.2).				✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Walla Walla River from Lowden (Dry Creek at river mile 27.2) to Oregon border (river mile 40). ³			✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Wolf Creek and the unnamed tributary at longitude -117.9013 and latitude 46.2511: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 32:																		
1. Dissolved oxygen concentration shall exceed 5.0 mg/L.																		
2. No waste discharge will be permitted for Mill Creek and tributaries from city of Walla Walla Waterworks Dam (river mile 21.6) to headwaters.																		

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Charley Creek and the unnamed tributary at longitude -117.3216 and latitude 46.2851: All waters (including tributaries) above the junction, except those waters in or above the Umatilla National Forest.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Charley Creek and the unnamed tributary at longitude -117.3216 and latitude 46.2851: All waters (including tributaries) above the junction that are in or above the Umatilla National Forest.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Crooked Creek and First Creek: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Cummings Creek and all tributaries, except those waters in or above the Umatilla National Forest.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Cummings Creek and all tributaries that are in or above the Umatilla National Forest.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Grande Ronde River from mouth to Oregon border (river mile 37). ¹			✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Grub Canyon and all tributaries.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Hixon Canyon and all tributaries.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Little Tucannon River and all tributaries.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Menatchee Creek and West Fork Menatchee Creek: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Pataha Creek and Dry Pataha Creek: All waters (including tributaries) above the junction, except those waters in or above the Umatilla National Forest.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Pataha Creek and Dry Pataha Creek: All waters (including tributaries) above the junction that are in or above the Umatilla National Forest.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Snake River from mouth to Washington-Idaho-Oregon border (river mile 176.1). ²			✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Tucannon River from Umatilla National Forest boundary (river mile 38.1) to Panjab Creek.		✓				✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Tucannon River and Panjab Creek: All waters (including tributaries) above the junction.	✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Tucannon River's unnamed tributaries at above longitude -117.7756, latitude 46.3877 and longitude -117.7449, latitude 46.3769.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓



TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses			Misc. Uses						
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Ahtanum Creek, South Fork, and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Carpenter Gulch and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Foundation Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Nasty Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sulphur Creek.				✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Yakima River from mouth to Cle Elum River (river mile 185.6). ¹			✓				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 37:																		
1. Temperature shall not exceed a 1-DMax of 21.0°C due to human activities. When natural conditions exceed a 1-DMax of 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.																		
WRIA 38 Naches																		
American River and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Barton Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping Lake's unnamed tributaries at longitude -121.3095 and latitude 46.8464.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping River's unnamed tributaries at longitude -121.2067 and latitude 46.9317 (outlet of Flat Iron Lake).	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping River's unnamed tributaries at longitude -121.2766 and latitude 46.8852.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping River below Cougar Creek.		✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Bumping River and Cougar Creek: All waters (including tributaries) above the junction.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Cedar Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Crow Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Deep Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Goat Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Granite Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Indian Creek and all tributaries.	✓						✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Yakima River and tributaries from Cle Elum River (river mile 185.6) to Stampede Creek except for the waters specifically listed in this table: Big Boulder Creek, Cle Elum River, Cooper River, Little Kachess Lake, Paris Creek and Waptus River.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Yakima River and all tributaries above Stampede Creek.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 39:																		
1. Temperature shall not exceed a 1-DMax of 21.0°C due to human activities. When natural conditions exceed a 1-DMax of 21.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.																		
WRIA 40 Alkaki-Squilchuck																		
There are no specific waterbody entries for this WRIA.																		
WRIA 41 Lower Crab																		
Crab Creek and tributaries.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 42 Grand Coulee																		
Crab Creek and tributaries.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 43 Upper Crab-Wilson																		
Crab Creek and tributaries.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 44 Moses Coulee																		
There are no specific waterbody entries for this WRIA.																		
WRIA 45 Wenatchee																		
Chikamin Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Chiwaukum Creek and South Fork Chiwaukum Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Chiwawa River from mouth to unnamed creek at longitude -120.8409 and latitude 48.0595 (near Phelps Creek).		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓



TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Entiat River and Silver Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Entiat River's unnamed tributaries at longitude -120.4998 and latitude 47.9107.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Entiat River's unnamed tributaries at longitude -120.5179 and latitude 47.9174.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Gene Creek and Potato Creek: All waters above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Gray Canyon, North Fork, and South Fork Gray Canyon: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Hornet Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Lake Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Mad River and all tributaries above Young Creek.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Mud Creek and Switchback Canyon: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Preston Creek and South Fork Preston Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Stormy Creek and the unnamed tributary at longitude -120.3865 and latitude 47.8387: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tillicum Creek and Indian Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Tommy Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 47: Chelan																		
Stehekin River.		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 48: Methow																		
Beaver Creek and South Fork Beaver Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Big Hidden Lake and all tributaries, and the outlet stream that flows into the East Fork Pasayten River.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Boulder Creek and Pebble Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Buttermilk Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓



TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
Twisp River and War Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Wolf Creek and North Fork Wolf Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 49 Okanogan																		
Okanogan River.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 50 Foster																		
There are no specific waterbody entries for this WRIA.																		
WRIA 51 Nespelem																		
There are no specific waterbody entries for this WRIA.																		
WRIA 52 Sanpoil																		
There are no specific waterbody entries for this WRIA.																		
WRIA 53 Lower Lake Roosevelt																		
There are no specific waterbody entries for this WRIA.																		
WRIA 54 Lower Spokane																		
Spokane River from mouth to Long Lake Dam (river mile 33.9). ¹			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Spokane River from Long Lake Dam (river mile 33.9) to Nine Mile Bridge (river mile 58.0). ²		✓					✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Spokane River from Nine Mile Bridge (river mile 58.0) to the Idaho border (river mile 96.5). ³			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 54:																		
1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.																		
2. a. The average euphotic zone concentration of total phosphorus (as P) shall not exceed 25µg/L during the period of June 1 to October 31.																		



TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
<p>b. Temperature shall not exceed a 1-DMax of 20.0°C, due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.</p> <p>3. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed $t = 34/(T + 9)$.</p>																		
WRIA 55 Little Spokane																		
There are no specific waterbody entries for this WRIA.																		
WRIA 56 Hangman																		
There are no specific waterbody entries for this WRIA.																		
WRIA 57 Middle Spokane																		
Lake Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Spokane River from Nine Mile Bridge (river mile 58.0) to the Idaho border (river mile 96.5). ¹			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes on WRIA 57:																		
<p>1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time exceed $t = 34/(T + 9)$.</p>																		
WRIA 58 Middle Lake Roosevelt																		
There are no specific waterbody entries for this WRIA.																		
WRIA 59 Colville																		
Colville River.			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
WRIA 60 Kettle																		
There are no specific waterbody entries for this WRIA.																		

TABLE 602 Use Designations for Fresh Waters by Water Resource Inventory Area (WRIA)	Aquatic Life Uses					Recreational Uses			Water Supply Uses				Misc. Uses					
	Char	Core Salmon/Trout	Non-Core Salmon/Trout	Salmon/Trout Rearing	Redband Trout	Warm Water Species	Ex Primary Cont	Primary Cont	Secondary Cont	Domestic Water	Industrial Water	Agricultural Water	Stock Water	Wildlife Habitat	Harvesting	Commerce/Navigation	Boating	Aesthetics
WRIA 61 Upper Lake Roosevelt																		
There are no specific waterbody entries for this WRIA.																		
WRIA 62 Pend Oreille																		
All streams flowing into Idaho from Kalispell Creek (at longitude -117.0339 and latitude 48.5865) to the Canadian border.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Calispell Creek (including tributaries) from Small Creek to Calispell Lake.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Calispell Lake and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Le Clerc Creek, East Branch, and West Branch Le Clerc Creek: All waters (including tributaries) above the junction, except those waters in or above the Colville National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Le Clerc Creek, East Branch, and West Branch Le Clerc Creek: All waters (including tributaries) above the junction that are in or above the Colville National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Harvey Creek and Paupac Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pass Creek and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Pend Oreille River from Canadian border (river mile 16.0) to Idaho border (river mile 87.7). ¹			✓					✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Small Creek and all tributaries, except those waters in or above the Kaniksu National Forest.	✓							✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Small Creek and all tributaries that are in or above the Kaniksu National Forest.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
South Salmo River and all tributaries.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Sullivan Creek and Gypsy Creek: All waters (including tributaries) above the junction.	✓						✓			✓	✓	✓	✓	✓	✓	✓	✓	✓
Notes for WRIA 62:																		
1. Temperature shall not exceed a 1-DMax of 20.0°C due to human activities. When natural conditions exceed a 1-DMax of 20.0°C, no temperature increase will be allowed which will raise the receiving water temperature by greater than 0.3°C; nor shall such temperature increases, at any time, exceed $t = 34/(T + 9)$.																		

NEW SECTION

WAC 173-201A-610 Use designations—Marine waters. All marine surface waters have been assigned specific uses for protection under Table 612.

Table 610 (Key to Table 612)

Abbreviation	General Description
Aquatic Life Uses:	(see WAC 173-201A-210(1))
Extraordinary	Extraordinary quality salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Excellent	Excellent quality salmonid and other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Good	Good quality salmonid migration and rearing; other fish migration, rearing, and spawning; clam, oyster, and mussel rearing and spawning; crustaceans and other shellfish (crabs, shrimp, crayfish, scallops, etc.) rearing and spawning.
Fair	Fair quality salmonid and other fish migration.
Shellfish Harvesting:	(see WAC 173-201A-210(2))
Shellfish Harvest	Shellfish (clam, oyster, and mussel) harvesting.
Recreational Uses:	(see WAC 173-201A-210(3))
Primary Cont.	Primary contact recreation.
Secondary Cont.	Secondary contact recreation.
Miscellaneous Uses:	(see WAC 173-201A-210(4))
Wildlife Habitat	Wildlife habitat.

Abbreviation	General Description
Harvesting	Salmonid and other fish harvesting, and crustacean and other shellfish (crabs, shrimp, scallops, etc.) harvesting.
Com./Navig.	Commerce and navigation.
Boating	Boating.
Aesthetics	Aesthetic values.

NEW SECTION

WAC 173-201A-612 Table 612—Use designations for marine waters. (1) Table 612 lists uses for marine waters. Only the uses with the most stringent criteria are listed. The criteria notes in Table 612 take precedence over the criteria in WAC 173-201A-210 for the same parameter.

(2) Table 612 is necessary to determine and fully comply with the requirements of this chapter. If you are viewing a paper copy of the rule from the office of the code reviser or are using their website, Table 612 may be missing (it will instead say "place illustration here"). In this situation, you may view Table 612 at the department of ecology's website at www.ecy.wa.gov, or request a paper copy of the rule with Table 612 from the department of ecology or the office of the code reviser.

PERMANENT

Table 612 Use Designations for Marine Waters	Aquatic Life Uses				Shellfish Harvest	Recreational Uses		Misc. Uses				
	Extraordinary	Excellent	Good	Fair		Primary Cont	Secondary Cont	Wildlife Habitat	Harvesting	Com/Navig	Boating	Aesthetics
Budd Inlet south of latitude 47°04'N (south of Priest Point Park).			✓				✓	✓	✓	✓	✓	✓
Coastal waters: Pacific Ocean from Ilwaco to Cape Flattery.	✓				✓	✓		✓	✓	✓	✓	✓
Commencement Bay south and east of a line bearing 258° true from "Brown's Point" and north and west of line bearing 225° true through the Hylebos waterway light.		✓			✓	✓		✓	✓	✓	✓	✓
Commencement Bay, inner, south and east of a line bearing 225° true through Hylebos waterway light except the city waterway south and east of south 11th Street.			✓				✓	✓	✓	✓	✓	✓
Commencement Bay, city waterway south and east of south 11th Street.				✓			✓	✓		✓	✓	✓
Drayton Harbor, south of entrance.		✓			✓	✓		✓	✓	✓	✓	✓
Dyes and Sinclair inlets west of longitude 122°37'W.		✓			✓	✓		✓	✓	✓	✓	✓
Elliott Bay east of a line between Pier 91 and Duwamish Head.		✓			✓	✓		✓	✓	✓	✓	✓
Everett Harbor, inner, northeast of a line bearing 121° true from approximately 47°59'5"N and 122°13'44"W (southwest corner of the pier).			✓				✓	✓	✓	✓	✓	✓
Grays Harbor west of longitude 123°59'W.		✓			✓	✓		✓	✓	✓	✓	✓
Grays Harbor east of longitude 123°59'W to longitude 123°45'45"W (Cosmopolis Chehalis River, river mile 3.1). Special condition - dissolved oxygen shall exceed 5.0 mg/L.			✓				✓	✓	✓	✓	✓	✓
Guemes Channel, Padilla, Samish and Bellingham bays east of longitude 122°39'W and north of latitude 48°27'20"N.		✓			✓	✓		✓	✓	✓	✓	✓
Hood Canal.	✓				✓	✓		✓	✓	✓	✓	✓
Mukilteo and all North Puget Sound west of longitude 122°39'W (Whidbey, Fidalgo, Guemes and Lummi islands and State Highway 20 Bridge at Deception Pass), except as otherwise noted.	✓				✓	✓		✓	✓	✓	✓	✓
Oakland Bay west of longitude 123°05'W (inner Shelton harbor).			✓				✓	✓	✓	✓	✓	✓

PERMANENT

PERMANENT

Table 612 Use Designations for Marine Waters	Aquatic Life Uses				Shellfish Harvest	Recreational Uses		Misc. Uses				
	Extraordinary	Excellent	Good	Fair		Primary Cont	Secondary Cont	Wildlife Habitat	Harvesting	Com/Navig	Boating	Aesthetics
Port Angeles south and west of a line bearing 152° true from buoy "2" at the tip of Ediz Hook.		✓			✓	✓		✓	✓	✓	✓	✓
Port Gamble south of latitude 47°51'20"N.		✓			✓	✓		✓	✓	✓	✓	✓
Port Townsend west of a line between Point Hudson and Kala Point.		✓			✓	✓		✓	✓	✓	✓	✓
Possession Sound, south of latitude 47°57'N.	✓				✓	✓		✓	✓	✓	✓	✓
Possession Sound, Port Susan, Saratoga Passage, and Skagit Bay east of Whidbey Island and State Highway 20 Bridge at Deception Pass between latitude 47°57'N (Mukilteo) and latitude 48°27'20"N (Similk Bay), except as otherwise noted.		✓			✓	✓		✓	✓	✓	✓	✓
Puget Sound through Admiralty Inlet and South Puget Sound, south and west to longitude 122°52'30"W (Brisco Point) and longitude 122°51'W (northern tip of Hartstene Island).	✓				✓	✓		✓	✓	✓	✓	✓
Sequim Bay southward of entrance.	✓				✓	✓		✓	✓	✓	✓	✓
South Puget Sound west of longitude 122°52'30"W (Brisco Point) and longitude 122°51'W (northern tip of Hartstene Island, except as otherwise noted).		✓			✓	✓		✓	✓	✓	✓	✓
Strait of Juan de Fuca.	✓				✓	✓		✓	✓	✓	✓	✓
Totten Inlet and Little Skookum Inlet, west of longitude 122°56'32" (west side of Steamboat Island).	✓				✓	✓		✓	✓	✓	✓	✓
Willapa Bay seaward of a line bearing 70° true through Mailboat Slough light (Willapa River, river mile 1.8).		✓			✓	✓		✓	✓	✓	✓	✓

NEW SECTION

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC number	New WAC number
173-201A-040	173-201A-240
173-201A-050	173-201A-250
173-201A-100	173-201A-400
173-201A-110	173-201A-410
173-201A-150	173-201A-500
173-201A-160	173-201A-510
173-201A-170	173-201A-520
173-201A-180	173-201A-530

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-201A-030	General water use and criteria classes.
WAC 173-201A-060	General considerations.
WAC 173-201A-070	Antidegradation.
WAC 173-201A-080	Outstanding resource waters.
WAC 173-201A-120	General classifications.

- WAC 173-201A-130 Specific classifications—
Freshwater.
- WAC 173-201A-140 Specific classifications—
Marine water.

WSR 03-14-146
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed July 2, 2003, 10:57 a.m.]

WSR 03-14-138

PERMANENT RULES

BELLEVUE COMMUNITY COLLEGE

[Filed July 2, 2003, 8:50 a.m.]

Date of Adoption: June 18, 2003.

Purpose: To correct a clerical error in WAC 132H-155-040 submitted under WSR 03-14-013, which was filed with part of a sentence missing. The section was filed correctly on the CR-102, but on the CR-103 the top margin was increased and the last part of the sentence at the bottom of the page was inadvertently left off. This filing corrects the clerical error.

Statutory Authority for Adoption: RCW 28B.50.140.

Adopted under notice filed as WSR 03-14-013 [03-08-020] on June 19 [March 26], 2003.

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 1, Amended 0, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

June 30, 2003

Elise J. Erickson
Rules Coordinator

NEW SECTION

WAC 132H-155-040 How to file a discrimination complaint. Whenever a complaint alleges discrimination or sexual harassment, this procedure should be used rather than the other complaint procedures. Alleged Title IX and Section 503 violations as well as other discrimination complaints will be investigated under this procedure. A student or member of the public who believes he/she has been discriminated against should bring his/her complaint to the Department of Human Resources, A101, or telephone (425) 564-2274.

Date of Adoption: June 25, 2003.
Purpose: The proposed rules will enable the program to acquire additional revenue to maintain current service activities for the water recreation program as well as provide a framework for local health jurisdictions to adjust corresponding local fees.

Citation of Existing Rules Affected by this Order: Amending WAC 246-260-990 and 246-262-990.

Statutory Authority for Adoption: RCW 70.90.150.

Other Authority: RCW 43.20B.250.

Adopted under notice filed as WSR 03-11-030 on May 15, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 1, 2003

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 01-14-047, filed 6/29/01, effective 7/30/01)

WAC 246-260-9901 Fees. (1) CONSTRUCTION PERMIT FEES. The department establishes the fees listed in Table 990.1 for construction permits for carrying out its duties under WAC 246-260-030.

TABLE 990.1
CONSTRUCTION PERMIT FEES

TYPE OF FACILITY	CONSTRUCTION PERMIT PLAN REVIEW FEES
I. Swimming Pools	
(a) 125,000 gallons or more in volume	\$((550.00)) <u>568.00</u>
(b) Greater than 75,000 gallons and less than 125,000 gallons	\$((329.00)) <u>339.00</u>
(c) Greater than 40,000 gallons and less than 75,000 gallons	\$((216.00)) <u>223.00</u>
(d) Less than 40,000 gallons	\$((165.00)) <u>170.00</u>

TYPE OF FACILITY	CONSTRUCTION PERMIT PLAN
II. Spa Pools	\$(165.00) <u>170.00</u>
III. Wading Pools	\$(108.00) <u>111.00</u>
IV. Spray Pools	\$(82.00) <u>84.00</u>
V. Alterations, renovations, or modifications to existing swimming, spa, wading or spray pools, not to exceed two-thirds of new construction permit fees, or \$(66) <u>68</u> /hour (which ever is less).	
VI. The fees for multiple pools at the same location will be based upon the highest fee for one facility and two thirds of the fee for each additional facility. For example: The fee for a 100,000 gallon swimming pool, a 60,000 gallon swimming pool, and a spa pool will be: ((329 + 144 + 110 = 583)) <u>339 + 149 + 113 = 601</u> . The fees for a small 30,000 gallon swimming pool and a spa pool will be ((165 + 110 = 275)) <u>170 + 113 = 283</u> .	

(2) OPERATING PERMIT FEES The department establishes the fees listed in Table 990.2 for operating permits for carrying out its duties under WAC 246-260-040.

TABLE 990.2

**FEE SCHEDULE
OPERATING PERMITS
Type + Number of Facilities**

	Single Swim Pool	Single Spa Pool	Single Wading Pool	Spray Pool or Pools	Each Additional Swim, Spa, or Wading Pool
Operating Permit 0-6 month	\$(282.00) <u>291.00</u>	\$(247.00) <u>255.00</u>	\$(205.00) <u>211.00</u>	\$(102.00) <u>105.00</u>	\$(61.00) <u>63.00</u>
Operating Permit 6-12 months	\$(462.00) <u>477.00</u>	\$(411.00) <u>424.00</u>	\$(360.00) <u>371.00</u>	\$(154.00) <u>159.00</u>	\$(82.00) <u>84.00</u>

Other Terms and Conditions:

- (1) The department may charge an additional fee of ~~\$(85)~~ 87 plus associated laboratory costs for any inspections beyond those provided under the annual operating permit when necessary due to violations of such items as (a) noncompliance with water quality standards, and (b) failure to comply with operational requirements for health and safety.
- (2) The department may charge an alternate annual fee for an operating permit based on direct and indirect costs associated with issuance of the permit when arrangements are made with local health jurisdictions to administer all or portions of the duties associated with the operating permit. Except, that the fee for this operating permit cannot exceed the cost established by the previous portions of this regulation, but the fee may be less.
- (3) During the first year of development of the operating permit and for new pool facilities built hereafter, or pools temporarily closed (significant period of several months) and reopened, there are provisions for prorating the costs for the operating permits.
- (4) A reduction in fees, up to but not exceeding thirty percent, may be granted by the department when a facility operator can demonstrate a satisfactory level of training in pool safety, water quality, maintenance and opera-

tions. The department will develop criteria for such fee reductions within six months of the adoption of this regulation.

- (5) For limited use facilities requiring operating permits which are serving less than fifteen living units, the operating permit shall be fifty percent of the fee. However, reinspection fees when necessary, will be charged as noted in condition (1).
- (6) Fees for multiple facilities at the same physical location shall have a maximum FEE CAP as follows: Seasonal (0-6 months) WRF's: ~~\$(750)~~ 774 NOTE: The third and subsequent pool/spa at the same location will be charged ~~\$(50)~~ 51 for each such additional pool/spa. Year around (>6 months) WRF's ~~\$(1000)~~ 1032 NOTE: The third and subsequent pool/spa at the same physical location will be charged ~~\$(65)~~ 67 for each such additional pool/spa.

Examples of Fees Charged:

- (1) If more than one pool at a facility and one is a year-round pool and another is a seasonal pool—year-round pool is base cost, seasonal pool is charged at additional fee charge. For example: Year-round spa = ~~\$(411)~~ 424 plus seasonal swimming pool is ~~\$(61)~~ 63 = ~~\$(472)~~ 487 total operating permits.
- (2) If a single swimming pool and a single spa pool is used at the facility, the fee schedule will include fees as

PERMANENT

noted. For a 0-6 month permit, the primary fee for the single swimming would be \$((282)) 291 and the spa pool would be viewed as the second pool at the facility and would have a fee of \$((64)) 63, total operating permit fees would be \$((343)) 354.

- (3) If there are 12 pools/spas at a single year-around pool facility, the FEE CAP would apply and the maximum fee of \$((1000)) 1032 would be charged. \$((462)) 477 base fee, \$((82)) 84 for first additional pool/spa, \$((65)) 67 for the remaining ten year-around pools/spas (10 x \$((65)) 67 = \$((650)) 670) Total fee before fee cap = \$((462)) 477 + \$((82)) 84 + \$((650)) 670 = \$((1194)) 1231. After FEE CAP the total fee = \$((1000)) 1032. If approved training were credited to this facility for the maximum 30% discount, the 30% would be applied to the FEE CAP fee of \$((1000)) 1032; \$((1000)) 1032 - 30% = \$((700)) 723.

AMENDATORY SECTION (Amending Order 122, filed 12/27/90, effective 1/31/91)

WAC 246-262-990 Fees. (1) The fee for plan review of a new recreational water contact facility containing a single attraction shall be two hundred six dollars plus the safety engineer reviewer's cost as billed.

(2) The fee for plan review of a new recreational water contact facility containing more than one attraction shall be two hundred six dollars plus the cost of the safety engineer reviewer's cost as billed plus ~~((seventy-five))~~ seventy-seven dollars for each attraction.

(3) The fee for review of plans for alterations or modifications of an existing recreational water contact facility shall be the total of direct and indirect costs, not to exceed one-half of the fee for review of a new project.

(4) The annual fee for an operating permit for a recreational water contact facility containing one attraction shall be one hundred ~~((seventy-five))~~ eighty dollars.

(5) The annual fee for an operating permit for a recreational water contact facility containing more than one attraction shall be one hundred ~~((seventy-five))~~ eighty dollars for the first attraction plus fifty-one dollars for each additional attraction up to a maximum fee of three hundred ~~((twenty-five))~~ thirty-five dollars.

(6) The department may charge an additional fee of fifty-one dollars plus associated laboratory costs for inspections beyond those provided under the annual operating permit when necessary due to violations of such items as:

- (a) Noncompliance with water quality standards; and
- (b) Failure to comply with operational requirements for health and safety.

Purpose: The proposed rules increase licensing fees for residential treatment facilities for psychiatrically impaired children and youth by 3.2%, which is within the limitations of I-601.

Citation of Existing Rules Affected by this Order: Amending WAC 246-323-990.

Statutory Authority for Adoption: RCW 43.70.250.

Adopted under notice filed as WSR 03-10-099 on May 7, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 1, 2003.

July 1, 2003
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 02-16-068, filed 8/5/02, effective 9/5/02)

WAC 246-323-990 Fees. Residential treatment facilities for psychiatrically impaired children and youth (RTF-CY) licensed under chapter 71.12 RCW shall:

(1) Submit an annual fee of ~~((eighty-five))~~ eighty-eight dollars ~~((and forty cents))~~ for each bed space within the licensed bed capacity of the RTF-CY;

(2) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of this chapter; and

(3) Set up twenty-four-hour assigned patient beds only within the licensed bed capacity approved by the department.

WSR 03-14-147

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 2, 2003, 10:59 a.m., effective August 1, 2003]

Date of Adoption: June 20, 2003.



WSR 03-12-004
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Children's Administration)
 [Filed May 22, 2003, 8:25 a.m.]

Chapter 388-140 WAC
LICENSING STANDARDS
FOR GROUP RECEIVING CENTERS

PURPOSE

Date of Adoption: May 20, 2003.

Purpose: The purpose of the proposed emergency rules for group receiving centers (GRC), chapter 388-140 WAC, is to establish licensing standards immediately for facilities providing out-of-home receiving or emergency care to children for up to thirty days. Licensing standards do not currently exist for GRCs. The emergency rules would provide protection for children placed in facilities in emergency situations. Currently, the one group receiving center in operation is licensed under standards that do not accurately or adequately address the program.

Statutory Authority for Adoption: RCW 74.15.030(2), 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Children's Administration has licensed a facility as a group care program with several waivers as there are no current licensing standards for a group receiving center. After consulting with the assistant attorney general and representatives of the federal IV-E program, we have learned that the approval of waivers jeopardizes federal funds received by Children's Administration to support services to children. Children's Administration is working with stakeholders for the permanent adoption of rules appropriate to this type of facility, and the department has initiated a rule-making proceeding by filing a preproposal statement of inquiry as WSR 02-20-016. The client age range and other sections may be modified during the permanent rule-making hearing.

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 125, 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 125, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

May 20, 2003

Brian H. Lindgren, Manager
 Rules and Policies Assistance Unit

NEW SECTION

WAC 388-140-0005 What is the purpose of this chapter? The department issues or denies a license on the basis of compliance with licensing requirements. This chapter defines general and specific licensing requirements for group receiving centers. Unless noted otherwise, these requirements apply to people who want to be licensed or re-licensed to provide care as a group receiving center.

The department is committed to ensuring that children who receive receiving care in a group setting experience health, safety, and well-being. We want these children's experiences to be beneficial to them not only in the short term, but also in the long term. Our licensing requirements reflect our commitment to children.

DEFINITIONS

NEW SECTION

WAC 388-140-0010 What definitions apply to this chapter? The following definitions are important to understand these rules:

"Abuse or neglect" means injury, sexual abuse, sexual exploitation, negligent treatment or mistreatment of a child where the child's health, welfare and safety are harmed.

"Assessment" means the appraisal or evaluation of a child in terms of his or her physical, mental, and emotional condition.

"Capacity" means the maximum number of children that a home or facility is licensed to care for at a given time.

"Children" or **"youth,"** means individuals who are under eighteen years old, including expectant mothers under eighteen years old.

"Compliance agreement" means a written licensing improvement plan to address specific skills, abilities, or other issues of a fully licensed home or facility to maintain and/or increase the safety and well-being of children in their care.

"DCFS" means the division of children and family services.

"DDD" means the division of developmental disabilities.

"DSHS" or **"department"** means the department of social and health services (DSHS).

"DLR" means the division of licensed resources.

"DOH" means the department of health.

"Group receiving center" or **"GRC"** is a facility providing the basic needs of food, shelter, and supervision for more than six children placed by the department, generally for thirty or less days.

"Firearms" means guns or weapons, including but not limited to the following: BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, and shotguns.

"Full licensure" means an entity meets the requirements established by the state for licensing or approved as meeting state licensing requirements.

"Hearing" means the department's administrative review process.

"I" refers to anyone who operates or owns group receiving center.

"Individual with developmental disabilities" means an individual who meets the eligibility requirements in RCW 71A.10.020 and WAC 388-825-030 for services. A developmental disability is any of the following: Mental retardation, cerebral palsy, epilepsy, autism, or another neurological condition described in WAC 388-825-030. These conditions must originate before the age of eighteen years; be expected to continue indefinitely; and result in a substantial handicap.

"Infants" means children under one year of age.

"License" means a permit issued by the department affirming that a home or facility meets the licensing requirements.

"Licensee" means the name of the individual or legal entity granted the license for a group receiving center.

"Licensor" means a division of licensed resources (DLR) employee at DSHS that:

- (1) Approves licenses for group receiving centers; and
- (2) Monitors centers to ensure that they continue to meet health and safety requirements.

"Medically fragile" means the condition of a child who has a chronic illness or severe medical disabilities requiring regular nursing visits, extraordinary medical monitoring, or under a physician's care.

"Nonambulatory" means not able to walk.

"Nonmobile" refers to children who are not yet walking, are unable to walk, or unable to use a wheelchair or other device to move about freely.

"Out-of-home placement" means a child's placement in a home or facility other than the child's parent, guardian, or legal custodian.

"Premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"Probationary license" means a license issued as a disciplinary measure to an individual or agency that has previously been issued a full license but is out of compliance with licensing standards.

"Psychotropic medication" means a type of medicine that is prescribed to affect or alter thought processes, mood, sleep, or behavior. These include anti-psychotic, antidepressants and anti-anxiety medications.

"Severe developmental disabilities" means significant disabling, physical and/or mental condition(s) that cause a child to need external support for self-direction, self-support and social participation.

"Service plan" means a description of the services to be provided or performed and who will provide or perform the activities.

"Universal precautions" is a term relating to procedures designed to prevent transmission of blood borne pathogens in health care and other settings. Under universal precautions (sometimes call standard precautions), blood or other potentially infectious materials of all people should always be considered potentially infectious for HIV and other pathogens. Individuals should take appropriate precautions using personal protective equipment like gloves to prevent contact with blood.

"We" or **"our"** refers to the department of social and health services, including DLR licensors and DCFS social workers.

"You" refers to anyone who operates a group receiving center.

GENERAL INFORMATION

NEW SECTION

WAC 388-140-0015 What is a group receiving center? A group receiving center is a facility licensed by the division of licensed resources to provide the basic needs of food, shelter, and supervision for more than six children placed by the department, generally for thirty or less days.

NEW SECTION

WAC 388-140-0020 Which children may I serve? If you are licensed as a group receiving center, you may serve children who meet one of the following conditions:

- (1) Need temporary placement after being taken into protective custody by law enforcement or the court;
- (2) Need temporary placement awaiting a more permanent placement; or
- (3) Need emergency placement during a temporary disruption of a current placement.

NEW SECTION

WAC 388-140-0025 What age children may a center serve? Group receiving centers may provide care for children from age two through seventeen.

NEW SECTION

WAC 388-140-0030 Who may place children at a group receiving center? The department of social and health services, a law enforcement officer, or the court may place children at a group receiving center.

NEW SECTION

WAC 388-140-0035 What hours must a center be open? A group receiving center must be open twenty-four hours a day, seven days a week.

NEW SECTION

WAC 388-140-0040 What are the basic expectations of a group receiving center program? (1) Your group receiving care center must provide a safe and healthy group living environment that meets the developmental needs of the children in your care, including;

- (a) A clean, homelike environment;
- (b) Basic necessities such as adequate food and appropriate clothing;
- (c) Safety; and
- (d) An age-appropriate environment with necessary structure, routine, and rules.

(2) Your center must be staffed with employees who are competent to provide for the safety and needs of the children in your care.

(3) You must provide a written statement that includes your mission, goals, and a description of the services you provide.

NEW SECTION

WAC 388-140-0045 What services are provided or arranged for by the group receiving center? (1) A group receiving center must provide direct receiving care and assessment or an appraisal of a child in terms of his or her physical, mental, and emotional condition.

(2) A group receiving center may provide transportation and/or family support services, such as the supervision of family visits.

NEW SECTION

WAC 388-140-0050 What school arrangements are required? A group receiving center must meet the following requirements for providing education instruction to the children under your care. You must:

- (1) Arrange for transportation for each child in care to travel to school;
- (2) Support each child participating in their education plan; and
- (3) Provide suitable study areas for children under your care.

NEW SECTION

WAC 388-140-0055 Is an orientation for a child required at a center? (1) As part of admission to a center, the staff must give an orientation to children that includes, but is not limited to:

- (a) A description of the program and services;
- (b) The physical facility;
- (c) The department-approved policy that states that youth may not have guns and other weapons, alcohol, tobacco, and drugs within the facility; and
- (d) The department approved policy on client visitation that includes access to the youth's attorney.

(2) Written documentation of this orientation must be in each child's file.

APPLICATION, LICENSING, AND PROGRAM APPROVALNEW SECTION

WAC 388-140-0060 Is a license required? A license is required to provide care to children at a group receiving center.

NEW SECTION

WAC 388-140-0065 How old do I have to be to apply for a license? You must be at least twenty-one years old to apply for a license to provide care to children at a group receiving center.

NEW SECTION

WAC 388-140-0070 What personal characteristics must I have to provide care to children at a center? If you are requesting a license or a position as an employee, volunteer, or intern in a group receiving center, you must:

(1) Demonstrate an understanding, ability, physical health, emotional stability and personality suited to meet the physical, mental, emotional, and social needs of the children under your care.

(2) You must not have been found to have committed abuse or neglect of a child or vulnerable adult, unless the department determines that you do not pose a risk to a child's safety, well-being, and long-term stability.

(3) Be able to furnish the child with a nurturing, respectful, supportive, and responsive environment.

(4) Not have been disqualified by our background check (chapter 388-06 WAC) before having unsupervised access to children.

NEW SECTION

WAC 388-140-0075 What personal information may I be required to provide to be licensed? (1) The department may request additional information at any time and it may include, but is not limited to:

- (a) Substance and alcohol abuse evaluations and/or documentation of treatment;
- (b) Psychiatric evaluations;
- (c) Psycho-sexual evaluations; and
- (d) Medical evaluations and/or medical records.

(2) The applicant/licensees pays for any evaluation requested by the department.

(3) The applicant/licensee must give permission for the licenser to speak with the evaluator/provider before and after the evaluation.

(4) If an applicant or licensee refuses to comply with subsections (1), (2), or (3) above, then DLR may deny the application or revoke the license.

NEW SECTION

WAC 388-140-0080 How do I apply for a license? (1) To apply for a group receiving center license, the person or legal entity responsible for the center must send the application form to your licensor at DLR.

(2) With the application form, you must send written verification for each applicant of the following information:

(a) A tuberculosis test or chest X-ray unless you can demonstrate medical or religious reasons prohibiting the test;

Note: Written documentation from your physician that indicates that you are free of the signs and symptoms of tuberculosis may be accepted.

(b) First-aid and cardio-pulmonary resuscitation (CPR) training appropriate to the age of the children in care; and

(c) HIV/AIDS and blood borne pathogens training including infection control standards.

(3) You must send a completed background check form to your licensor on anyone on the premises having unsupervised access to children who:

(a) Is not a foster child; and

(b) Is at least sixteen years old.

(4) You must send a completed FBI fingerprint form for any individual at your facility who has lived outside Washington state within the last three years and meets subsection (3) above.

NEW SECTION

WAC 388-140-0085 What is required to document completed background checks on staff? You must keep a log of all background check results of employees, volunteers, and interns having unsupervised access to children on the premises of the group receiving center.

NEW SECTION

WAC 388-140-0090 What first aid and cardiopulmonary resuscitation (CPR) training is required? (1) You, your staff, volunteer, intern, or any individual who may at anytime be the sole caregiver at the group receiving center, must have the following current first-aid and CPR training:

(a) Basic standard first aid; and

(b) Approved age-appropriate cardiopulmonary resuscitation (CPR) training provided by an instructor certified in accordance with a nationally recognized standard.

(2) A person with first aid and CPR training must be on the premises of a group receiving center at all times, when children are present.

(3) The CPR training may be waived for persons with a statement from their physician that the training is not advised for medical reasons. However, another person with CPR training must be on the premises when children are present.

(4) You must keep records in your center showing who has completed current first aid and CPR training. This includes copies of the certificate of completion for the training for each staff person.

NEW SECTION

WAC 388-140-0095 What HIV/AIDS and blood borne pathogens training is required? (1) You must provide or arrange for training for yourself, your staff, or any person who may at any time be the sole caregiver at a group receiving center, on infection control, prevention, and transmission of HIV and AIDS and blood borne pathogens.

(2) You must comply with infection control requirements and educational material consistent with the approved current curriculum "Know - HIV/AIDS Prevention Education for Health Care Facility Employees," published by the department of health, office on HIV/AIDS.

(3) Child care workers and anyone else providing direct care to children at a group receiving center must use Universal Precautions (see definitions) when coming in contact with the bodily fluids or secretions of a child.

NEW SECTION

WAC 388-140-0100 How long do I have to complete the licensing application packet? (1) You must complete your licensing application with supporting documents, such as training certificates, within ninety days of first applying for a group receiving center license.

(2) If you fail to meet this deadline and have not contacted your licensor, your licensor may consider your application withdrawn.

(3) If you are applying for a license renewal, you must send the application form to your licensor at least ninety days prior to the expiration of your current license.

NEW SECTION

WAC 388-140-0105 Does the department need to approve the program I offer? (1) The department must approve the program that you have developed for children under your care at group receiving center.

(2) You must send to DLR a detailed written program description outlining assessment, educational, recreational, therapeutic, and other services you will provide to children and their families.

(3) A sample of the schedule of daily activities for children under care must be included with the program description.

NEW SECTION

WAC 388-140-0110 How does the department decide how many children a center may serve? (1) The department approves the number of children that a group receiving center may serve based on an evaluation of these factors:

(a) Physical accommodations in the center;

(b) The number of staff and volunteers available for providing care;

(c) Your skills and the skills of your staff;

(d) The ages and characteristics of the children you are serving;

(e) The evaluation of fire safety by the office of the state fire marshal; and

(f) The evaluation of health and safety by the department of health.

(2) Based on the evaluation, the department may license you for the care of fewer children or different age groups than your facility could house.

NEW SECTION

WAC 388-140-0115 Will the department approve exceptions to the licensing requirements? (1) At its discretion, the department may make exceptions to the licensing requirements for a group receiving center. The exceptions:

(a) Must only be nonsafety requirements; and

(b) Must not compromise the safety and well being of the children receiving care.

(2) You must make a written request for an exception to the licensing requirements.

(3) After granting an exception to a licensing requirement, the department may:

(a) Limit or restrict your license; and/or

(b) Require you to enter into a compliance agreement to ensure the safety and well being of the children in your care.

(4) You must keep a copy of the approved exception and any compliance agreement to the licensing requirements for your files.

(5) You do not have appeal rights if the department denies your request for an exception to our licensing requirements.

CORRECTIVE ACTION

NEW SECTION

WAC 388-140-0120 Does the department issue probationary licenses? (1) The department may issue a group receiving center a probationary license as part of a corrective action plan with a licensed provider.

(2) The department must base its decision about whether to issue a probationary license on the following:

(a) Intentional or negligent noncompliance with the licensing rules;

(b) A history of noncompliance with the rules;

(c) Current noncompliance with the rules;

(d) Evidence of a good faith effort to comply; and

(e) Any other factors relevant to the specific situation.

(3) A probationary license may be issued for up to six months. At its discretion, the department may extend the probationary license for an additional six months.

NEW SECTION

WAC 388-140-0125 When is a license denied, suspended or revoked? (1) A group receiving center license must be denied, suspended or revoked if the department decides that you cannot provide care for children in a way that ensures their safety, health and well-being.

(2) The department must disqualify you for any of the reasons that follow:

(a) Your facility fails to meet the health and safety requirements to receive a certificate of compliance as

required by the department of health and/or office of the state fire marshal.

(b) You have been disqualified by your background check (see chapter 388-06 WAC).

(c) You or your staff have been found to have committed abuse, neglect, or you treat, permit or assist in treating children in your care with cruelty, indifference, or exploitation, unless the department determines that you do not pose a risk to a child's safety, well-being, and long term stability.

(d) You or anyone on the premises had a license denied or revoked from an agency that provided care to children or vulnerable adults.

(e) You try to get a license deceitfully, such as making false statements or leaving out important information on the application.

(f) You commit, permit or assist in an illegal act on the premises of a group receiving center providing care to children.

(g) You are using illegal drugs, or excessively using alcohol and/or prescription drugs.

(h) You knowingly allowed employees or volunteers with false statements on their applications to work at your agency.

(i) You repeatedly lack qualified or an adequate number of staff to care for the number and types of children under your care.

(j) You have refused to allow our authorized staff and inspectors to have requested information or access to your facility, child and program files, and/or your staff and clients.

(k) You are unable to manage the property, fiscal responsibilities, or staff in your agency.

(l) You have failed to comply with the federal and state laws for any Native American children that you have under care.

NEW SECTION

WAC 388-140-0130 Are there any other reasons that could potentially cause me to lose my license? (1) The department may suspend or revoke your group receiving center license if you go beyond the conditions of your license by:

(a) Having more children than your license allows; or

(b) Having children with ages different than your license allows.

(2) The department also may suspend or revoke your license if you:

(a) Fail to provide a safe, healthy and nurturing environment for children under your care; or

(b) Fail to comply with any of our other licensing requirements.

NEW SECTION

WAC 388-140-0135 What happens when a licensor is notified that a licensee has received a noncompliance support order from the division of child support? (1) The department must suspend a group receiving center license, if the licensor receives a notice from the division of child sup-

port that the licensee is not in compliance with a support order under authority of RCW 43.20A.205 and 74.20A.320.

(2) In this situation, the suspension of a center license, for noncompliance of a support order, would be effective on the date the licensee receives a notice from the licensor.

(3) The license remains suspended until the licensee provides proof that he or she is in compliance with the child support order.

(4) The licensee does not have a right to an administrative hearing based on a suspension of the center license due to noncompliance of a child support order.

NEW SECTION

WAC 388-140-0140 How will the department notify me if my license is denied, suspended, or revoked? (1) The department will send you a certified letter informing you of any decision to deny, suspend or revoke your group receiving center license.

(2) In the letter, the department also will tell you what you may do if you disagree with the decision of the department to deny, suspend or revoke your group receiving center license.

NEW SECTION

WAC 388-140-0145 What may I do if I disagree with the department's decision to deny, suspend or revoke my license? (1) You have the right to appeal any decision the department makes to amend, deny, suspend, or revoke your group receiving center license. The exception is outlined in WAC 388-140-0135 and deals with noncompliance of a child support order.

(2) Your right to appeal and the procedures for that process are outlined in RCW 43.20A.205 and 74.14.130; chapter 34.05 RCW, and chapter 388-02 WAC.

POSTING LICENSE AND REPORTING CHANGES

NEW SECTION

WAC 388-140-0150 Where do I post my license? You must post your group receiving center license where the public can easily view it.

NEW SECTION

WAC 388-140-0155 What changes to my center must I report to my licensor? (1) You must report to your licensor immediately any changes in the original group receiving center licensing application. This includes changes in:

- (a) Your location or designated space, including address;
- (b) Your phone number;
- (c) The maximum number, age ranges, and sex of children you wish to serve; or
- (d) The changes in the structure of your facility or on the premises from events causing damage, such as a fire, or from remodeling.

(2) A license is valid only for the person or organization named on the license at a specific address. If you operate a

group receiving center, you must also report any of the following changes to your licensor:

- (a) A change of your agency's executive director;
- (b) The death, retirement, or incapacity of the person who holds the license;
- (c) A change in the name of a licensed corporation, or the name by which your center is commonly known; or
- (d) Changes in an agency's articles of incorporation and bylaws that apply to the operation or the license of the facility.

FIRE SAFETY

NEW SECTION

WAC 388-140-0160 Must I comply with the requirements of the State Fire Marshal to receive a license? (1) A group receiving center must comply with the requirements for fire safety of the office of the state fire marshal under WAC 212-12-210.

(2) The office of the state fire marshal will issue a notice of approval for licensing to the licensing agency when you have met their requirements for fire safety.

NEW SECTION

WAC 388-140-0165 Do I need to notify the local fire department of the location of my center? You must notify the local fire department of the location of your group receiving center so that medics and firefighters can easily locate your facility.

NEW SECTION

WAC 388-140-0170 Are local ordinances part of the licensing requirements? (1) Local ordinances (laws), such as zoning regulations and local building codes, are outside the scope of the licensing requirements for a group receiving center.

(2) The department may require you to provide proof that you have met local ordinances.

NEW SECTION

WAC 388-140-0175 Are there fire safety requirements? A group receiving center must comply with the fire safety requirements that follow.

(1) Every sleeping room used by children under care must have at least one operable window or door approved for emergency escape or rescue that must open directly into a public street, public alley, yard, or exit court.

(2) Centers with floors located more than four feet above or below ground (one-half story) must not be used for care of nonmobile children.

(3) Emergency windows must:

- (a) Be operable from the inside to provide a full, clear opening without the use of separate tools;
- (b) Have a minimum net clear open area of 5.7 square feet (0.53 mm);

- (c) Have a minimum net clear open height dimension of 24 inches (610 mm);
- (d) Minimum net clear open width dimension of 20 inches (508 mm);
- (e) Have a finished sill height of not more than 44 inches (1118 mm) above the floor.
- (4) No child may occupy a space that is accessible only by a ladder, folding stairs, or a trap door.
- (5) Every bathroom door lock must be designed to permit the opening of the locked door from the outside.
- (6) Every closet door latch must be designed to open from the inside.
- (7) Open-flame devices and fireplaces, heating and cooking appliances, and products capable of igniting clothing must not be left unattended or used incorrectly.
- (8) Fireplaces, wood stoves and other heating systems that have a surface hot enough to cause a burn must have a barrier to prevent access by children under age six years.

NEW SECTION

WAC 388-140-0180 What are the requirements for smoke detectors? (1) Group receiving centers licensed for sixteen or more residents must have an approved automatic and manual fire alarm system.

(2) Operation of any fire alarm activating device must automatically, without delay, activate off-site monitoring and signal a general alarm indication and sound an audible alarm throughout the building or affected part of the building.

(3) Group receiving centers licensed for fewer than sixteen persons must have smoke detectors installed in all sleeping room, corridors, and in areas separating use areas from sleeping areas.

(4) Smoke detectors must be installed following the approved manufacturer's instructions.

NEW SECTION

WAC 388-140-0185 What are the requirements for a fire evacuation plan? (1) You must develop a written fire evacuation plan for your group receiving center.

(2) The evacuation plan must include:

(a) An evacuation floor plan, identifying exit doors and windows;

(b) Action that the person discovering a fire must take;

(c) Methods for sounding an alarm on the premises;

(d) Ways to evacuate the building that ensures responsibility for children; and

(e) Action that staff must take while waiting for the fire department.

(3) The plan must be posted at each exit door.

NEW SECTION

WAC 388-140-0190 What fire prevention measures must I take? The department requires that you must take the following fire prevention measures for your group receiving center:

(1) You must assure that furnace rooms are:

(a) Maintained free of lint, grease, and rubbish; and

(b) Suitably isolated, enclosed, or protected.

(2) Flammable or combustible materials must be stored away from exits and in areas that are not accessible to children. Combustible rubbish must not be allowed to collect and must be removed from the building or stored in closed, metal containers away from building exits.

(3) All trash must be removed daily from the building and thrown away in a safe manner outside the building. All containers used for the disposal of waste material must consist of noncombustible materials and have tops.

(4) All electrical motors must be kept free of dust.

(5) Open-flame devices capable of igniting clothing must not be left on, unattended or used in a manner that could result in an accidental ignition of children's clothing.

(6) Candles must not be used.

(7) All electrical circuits, devices and appliances must be properly maintained. Circuits must not be overloaded. Extension cords and multi-plug adapters must not be used in place of permanent wiring and proper outlets.

(8) Fireplaces, woodstoves, and similar devices must be installed and approved according to the rules that were in effect at the time of installation (see the local building permit). These devices must be properly maintained and must be cleaned and certified at least once a year or maintained according to the manufacturer's recommendations.

(9) Separate hazardous areas by at least a "one-hour" fire-resistant wall. Hazardous areas include rooms or spaces containing:

(a) A commercial-type cooking kitchen;

(b) A boiler;

(c) A maintenance shop;

(d) A janitor closet;

(e) A woodworking shop;

(f) A vehicle garage;

(g) Flammable or combustible materials; or

(h) Painting operations.

(10) The department does not require a fire-resistant wall when:

(a) A kitchen contains only a domestic cooking range; and

(b) Food preparation does not produce smoke or grease-laden vapors.

NEW SECTION

WAC 388-140-0195 What are the requirements for fire drills? (1) You must conduct monthly fire drills to test and practice the evacuation procedures.

(2) The monthly fire drill must be conducted on each shift, so that each person providing care to children participates in the drill.

(3) You must consult with and follow the state fire marshal protocol for "mock" fire drills, if you care for nonambulatory children.

(4) You must maintain a written record on the premises that indicates the date and time that drill practices were completed at your group receiving center.

NEW SECTION

WAC 388-140-0200 What fire safety procedures do center staff need to know? You and your staff at a group receiving center must be familiar with:

- (1) Safety procedures related to fire prevention; and
- (2) All aspects of a fire drill.
- (3) Your and your staff must be able to:
 - (a) Operate all fire extinguishers installed on the premises;
 - (b) Test smoke detectors (single station types);
 - (c) Conduct frequent inspections of the facility to identify fire hazards; and
 - (d) Correct any hazards noted during the inspection.

NEW SECTION

WAC 388-140-0205 What are the requirements for fire sprinkler systems? (1) Where a sprinkler system is required, a system complying with the uniform building code standards must be installed.

(2) A Washington state licensed fire sprinkler contractor must annually test and certify sprinkler systems installed in a group receiving center for fire prevention.

HEALTH AND ENVIRONMENTNEW SECTION

WAC 388-140-0210 Does a center need approval from the department of health to operate? (1) A group receiving center must receive a certificate of compliance from the department of health before the division of licensed resources (DLR) will issue a group receiving center license.

(2) The department of health (DOH) conducts the health and safety survey. A registered nurse (RN) and/or a public health sanitarian may complete the survey.

NEW SECTION

WAC 388-140-0215 What are the physical structure safety requirements for a center? You must keep the equipment and the physical structures in your group receiving center safe and clean for the children you serve. You must:

- (1) Maintain your buildings, premises, and equipment in a clean and sanitary condition, free of hazards, and in good repair.
- (2) Provide handrails for steps, stairways, and ramps, if required by the department.
- (3) Have emergency lighting devices available and in operational condition.
- (4) Furnish your center appropriately, based on the age and activities of the children under care.
- (5) Have washable, water-resistant floors in your center bathrooms, kitchens, and any other rooms exposed to moisture. The department may approve washable, short-pile carpeting that is kept clean and sanitary for your facility's kitchens.
- (6) Provide tamper proof or tamper resistant electrical outlets or blank covers installed in areas accessible to chil-

dren under the age of six or other persons with limited mental capacity or who might be endangered by access to them.

(7) Have easy access to rooms occupied by children in case an emergency arises. Some examples are bedrooms, toilet rooms, shower rooms, and bathrooms.

(8) Have a written disaster plan for emergencies such as fire and earthquakes.

NEW SECTION

WAC 388-140-0220 What are the requirements for the location of a center? (1) Your group receiving center must be located on a well-drained site, free from hazardous conditions. Some examples of hazards are natural or man-made water hazards such as lakes or streams, steep banks, ravines, and busy streets.

(2) The safety of the children in care is paramount. You must discuss with the licenser any potential hazardous conditions, considering the children's ages, behaviors, and abilities.

(3) If DLR decides that hazardous conditions are present at the group receiving center, a supervision plan must be written for the children in care.

NEW SECTION

WAC 388-140-0225 What are the requirements for emergency aid vehicle access to my center? (1) Your group receiving center must be accessible to emergency vehicles.

(2) Your address must be clearly visible on the facility or mailbox so that firefighters or medics can easily find your center location.

NEW SECTION

WAC 388-140-0230 What steps must I take to ensure children's safety around outdoor bodies of water? (1) You must ensure children in your care at a group receiving center are safe around bodies of water.

(2) On a daily basis, you must empty and clean any portable wading pool that children use.

(3) When they are swimming, wading, or near a body of water, children under twelve must be in continuous visual range at all times by an adult with current first aid and age appropriate CPR.

(4) You must ensure age and developmentally appropriate supervision of any child that uses hot tubs, swimming pools, spas, and other man-made and natural bodies of water.

(5) All safety devices and rescue equipment, such as life jackets, must meet state water safety regulations.

(6) You must lock or secure hot tubs and spas when they are not in use.

(7) You must place a fence designed to discourage climbing and have a locking gate around a pool or have another DLR approved safety device. The pool must be inaccessible to children when not in use.

(8) A certified lifeguard must be on duty when children are using a swimming pool.

NEW SECTION

WAC 388-140-0235 What measures must I take for pest control? You must make reasonable attempts, using the least toxic methods, to keep the premises of the group receiving center free from pests. This includes rodents, flies, cockroaches, fleas, and other insects.

NEW SECTION

WAC 388-140-0240 What are the requirements regarding pets and animals at a center? (1) In a group receiving center, you must not have any common household pets, exotic pets, other animals, birds, insects, reptiles, or fish that are dangerous or provide a risk to the children in care.

(2) Common household pets, exotic pets, animals, birds, insects, reptiles, and fish must:

- (a) Be cared for in compliance with state regulations and local ordinances; and
- (b) Be free from disease and cared for in a safe and sanitary manner.

NEW SECTION

WAC 388-140-0245 Are alcoholic beverages allowed at a center? You must not have alcohol on the premises of a group receiving center. The staff of the center may not consume alcohol on the premises or during breaks.

NEW SECTION

WAC 388-140-0250 Is smoking permitted around children? (1) You must prohibit smoking in the group receiving center and in motor vehicles while transporting children.

(2) You may permit adults to smoke outdoors away from children.

(3) Nothing in this section is meant to interfere with traditional or spiritual Native American ceremonies involving the use of tobacco.

NEW SECTION

WAC 388-140-0255 May I have firearms at a center? The department prohibits firearms, ammunition, and other weapons on the premises of a group receiving center.

NEW SECTION

WAC 388-140-0260 May I use wheeled baby walkers? The department prohibits the use of wheeled baby walkers in a group receiving center.

STORAGE OF MEDICATIONS AND CHEMICALSNEW SECTION

WAC 388-140-0265 Are there requirements for the storage of medications? At a group receiving center:

(1) You must keep all medications, including pet medications, vitamins and herbal remedies, in locked storage.

(2) You must store external medications separately from internal medications.

(3) You must store medications according to the manufacturer or pharmacy instructions.

(4) Pet and human medications must be stored in separate places.

NEW SECTION

WAC 388-140-0270 Are there requirements for storing dangerous chemicals or other substances? (1) At a group receiving center, you must store the following items in a place that is not accessible to children, persons with limited mental capacity, or anyone who might be endangered by access to the following products:

- (a) Cleaning supplies;
- (b) Toxic or poisonous substances;
- (c) Aerosols; and
- (d) Items with warning labels.

(2) When containers are filled with toxic substances from a stock supply, you must label the containers filled from a stock supply.

(3) Toxic substances must be stored separately from food items.

FIRST-AID SUPPLIESNEW SECTION

WAC 388-140-0275 Are first-aid supplies required? (1) At a group receiving center, first-aid supplies must be kept on hand for immediate use, including nonexpired syrup of ipecac that is to be used only when following the instruction of the poison control center.

(2) The following first-aid supplies must be kept on hand:

- (a) Barrier gloves and one-way resuscitation mask;
- (b) Bandages;
- (c) Scissors and tweezers;
- (d) Ace bandage;
- (e) Gauze;
- (f) Thermometer; and
- (g) A first-aid manual.

MEDICAL CARE AND MEDICATION MANAGEMENTNEW SECTION

WAC 388-140-0280 What are the requirements for medical policies and procedures for a center? (1) Group receiving centers must have written policies and procedures about the control of infections. These policies must include, but are not limited to, the following areas:

- (a) Isolation;
- (b) Aseptic procedures;
- (c) Reporting communicable diseases;

(d) Hygiene, including hand washing, using the toilet, diapering, and laundering.

(2) Group receiving centers must maintain current written medical policies and procedures to be followed on:

(a) Prevention of the transmission of communicable diseases including:

(i) Hand washing for staff and children; and

(ii) Management and reporting of communicable diseases.

(b) Medication management, including steps to be taken if medication is incorrectly administered;

(c) First aid;

(d) Care of minor illnesses;

(e) Actions to be taken for medical emergencies;

(f) Infant care procedures when infants are under care; and

(g) General health practices.

(3) You must arrange to have one of the following help you develop and periodically review your medical policies and procedures:

(a) An advisory physician,

(b) A physician's assistant, or

(c) A registered nurse.

NEW SECTION

WAC 388-140-0285 Must all children accepted for care have current immunizations? (1) Group receiving centers may accept a child for care who is not current with immunizations or whose immunization status is unknown.

(2) If a child's placement at a center extends beyond thirty days, you must obtain the child's immunization records and if the child is not current update immunizations as soon as medically possible.

NEW SECTION

WAC 388-140-0290 What must I do to prevent the spread of infections and communicable diseases? (1) You must take precautions to guard against infections and communicable diseases infecting the children under care in your center.

(2) In a group receiving center, staff with a reportable communicable disease or notifiable disease conditions, as defined by the department of health, in chapter 246-101 WAC, in an infectious stage must not be on duty until they have a physician's approval for returning to work.

(3) Applicants for a license or adults authorized to have unsupervised access to children in a center must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless:

(a) The person has evidence of testing within the previous twelve months;

(b) The person has evidence that they have a negative chest x-ray since a previously positive skin test;

(c) The person has evidence of having completed adequate preventive therapy or adequate therapy for active tuberculosis.

(4) The department does not require a tuberculin skin test if:

(a) A person has a tuberculosis skin test that has been documented as negative within the past twelve months; or

(b) A physician indicates that the test is medically unadvisable.

(5) Persons whose tuberculosis skin test is positive must have a chest x-ray within thirty days following the skin test.

(6) The department does not require re-testing unless a person believes they have been exposed to someone with tuberculosis or if testing is recommended by their health care provider.

(7) The center must keep the results of the applicant and employees TB test results in the personnel file available for review by DLR.

NEW SECTION

WAC 388-140-0295 How do I manage medications for children? (1) You must meet the department's requirements for managing prescription and nonprescription medication for children under your care.

(2) If you care for children in the custody of a tribal court you must follow the direction of that court regarding giving or applying prescription and nonprescription medications or ointments.

(3) Only you or another authorized care provider (staff) may:

(a) Have access to medications for the child under your care; and

(b) Give medications, prescription and nonprescription, only on the written approval of a parent, person or agency having authority by court order to approve medical care.

Exception: There are several over-the-counter medications that may be given without a physician's order. Those medications are listed in WAC 388-140-0295(13).

(4) You or another authorized care provider must give medications, prescription and nonprescription:

(a) Only as specified on the prescription label; or

(b) As otherwise approved by a physician or another person legally authorized to prescribe medication.

(5) You must keep a record of all medications you give a child.

(6) You and other authorized care provider must consult with a pharmacist on the proper disposal of medications that are no longer being taken or have expired.

(7) The disposal of any prescription medication must be documented and contain the following information:

(a) What medication was disposed;

(b) The name of the child the medication was prescribed for;

(c) The amount disposed;

(d) The name of the individual disposing of the medication; and

(e) The name of the individual witnessing the disposal.

(8) Children taking oral medications must have the prescribing physician's written authorization before any medications, herbal supplements or remedies, or vitamins and minerals are given.

Nonprescription medications

(9) Nonprescription medications may be given with a physician's standing order, if the order is child specific.

(10) The prescribing physician must be aware of all prescription and nonprescription medication the child is taking.

(11) You or another authorized care provider (staff) may give the following medications without a physician's order:

- (a) Nonaspirin antipyretics/analgesics, fever reducers/pain relievers;
- (b) Nonnarcotic cough suppressants;
- (c) Decongestants;
- (d) Antacids and anti-diarrhea medication;
- (e) Anti-itching ointments or lotions intended specifically to relieve itching;
- (f) Shampoo for the removal of lice;
- (g) Diaper ointments and powders intended specifically for use in the diaper area of children;
- (h) Sun screen for children over six months; and
- (i) Antibacterial ointment for first aid use.

Psychotropic medications

(12) Care providers must not approve giving or stopping psychotropic medications to a child in care. Approval can only be given by one of these:

- (a) The child's parent;
- (b) Dependency guardians;
- (c) A court order; or
- (d) The child's social worker, if:
 - (i) The child is legally free and in the permanent custody of the department; or
 - (ii) It is impossible to obtain informed parental consent after normal work hours, on weekends, or on holidays.

(13) Children who are at least thirteen years old may decline to take prescription psychotropic medication. If this happens contact the child's social worker immediately and document the child's refusal.

NEW SECTION

WAC 388-140-0300 What medicine may I accept for a child? The only medicine you may accept from the child's parent, legal guardian, law enforcement officer, or department social worker is medicine in the original container labeled with:

- (1) The child's first and last names;
- (2) The date the prescription was filled;
- (3) The medication's expiration date; and
- (4) Legible instructions for the administration of the drug (manufacturer's instructions or prescription label).

NEW SECTION

WAC 388-140-0305 When may children take their own medicine? (1) You may permit children under your care to take their own medicine as long as:

- (a) They are physically and mentally capable of properly taking the medicine; and
- (b) The child's parent or legal guardian approves in writing.

(2) You must keep the written approval by the child's parent or legal guardian in your records.

(3) When children take their own medication, the medication and medical supplies must be kept locked or inaccessible to other children and unauthorized persons.

NEW SECTION

WAC 388-140-0310 When must I get medical exams for the children under my care? (1) In consultation with the child's social worker, you must schedule a physical exam (EPSDT) for any child who, within the past year, has not:

- (a) Been under regular medical supervision; or
- (b) Had a physical exam by a physician, a physician's assistant, or an advanced registered nurse practitioner (ARNP).

(2) A physical exam (EPSDT) must be completed within thirty days of placement and annually thereafter.

Note: You may contact the child's social worker for information on this.

NEW SECTION

WAC 388-140-0315 Whom do I notify about medication changes and reactions? (1) You must notify the child's social worker of changes in prescribed medications.

(2) You must notify the child's social worker and physician about any adverse reactions the child has to medications.

FOOD/DIET/MENUS**NEW SECTION**

WAC 388-140-0320 Are there general menu requirements? The department has menu requirements for group receiving centers.

(1) Your program must be in compliance with the department of health standards in chapter 246-215 WAC on food service sanitation.

(2) You must prepare and date daily menus, including snacks, at least one week in advance.

(3) You must provide for the proper storage, preparation, and service of food to meet the needs of the program.

(4) A menu must specify a variety of foods for adequate nutrition and meal enjoyment.

(5) You must keep the menus on file for a minimum of six months so that we can review your menus.

(6) You must post each person's dietary restrictions, if any, for staff to follow.

(7) You must post a schedule of mealtimes.

NEW SECTION

WAC 388-140-0325 How often must I feed children at a center? (1) You must provide all children a minimum of three meals in each twenty-four hour period. You may vary from this guideline only if you write to your licenser requesting a change and the request is approved by DLR.

(2) The time interval between the evening meal or snack and breakfast must not be more than fourteen hours.

NEW SECTION

WAC 388-140-0330 How do I handle a child's special diet? Unless a child is admitted to a group receiving center with a written physician's order as medically necessary for the child, the following must not be served:

- (1) Nutrient concentrates, supplements, or amino-acids;
- (2) Vitamins; or
- (3) Modified diets.

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.

NEW SECTION

WAC 388-140-0335 What home canned foods may I use? You may not serve home canned foods to children at a group receiving center.

ROOM REQUIREMENTSNEW SECTION

WAC 388-140-0340 Are there room requirements?

(1) You must provide rooms that are ample in size and properly furnished for the number of children you serve at a group receiving center.

(2) With thirteen or more children, you must provide at least one separate indoor recreation area. Its size and location must be sufficient for the age and number of the children using it to engage in recreational and informal education activities.

(3) You must provide a room or area that is used as an administrative office. In addition, suitable offices must be provided for social service staff. In facilities caring for fewer than thirteen children, these offices may be combined with the administrative office.

NEW SECTION

WAC 388-140-0345 When do I need a special care room? (1) A group receiving center must provide a special care room reserved for the care of a person who needs to be separated from the group due to injury, illness or the need for additional rest.

(2) A special care room must:

(a) Be located in a place that easily allows the person to be supervised;

(b) Have toilet and lavatory facilities that are easily accessible to any person staying in the special care room.

(3) After each use have the area and equipment sanitized if used by any person who is suspected of having a communicable disease.

(4) The special care room may be used for other purposes when it is not needed for the separation and care of an ill or injured person.

NEW SECTION

WAC 388-140-0350 What does the room temperature at a center need to be? (1) You must maintain the temperature within your group receiving center facility at a reasonable level while occupied. This would normally be a minimum of sixty-eight degrees Fahrenheit during waking hours and a minimum of sixty-five degrees Fahrenheit during sleeping hours.

(2) You must consider the age and needs of the children under your care in determining appropriate temperature.

NEW SECTION

WAC 388-140-0355 What are the kitchen requirements? (1) You must provide facilities to properly store, prepare, and serve food to meet the needs of the children under your care at your group receiving center.

(2) All food service facilities and food handling practices must comply with rules and regulations of the state board of health governing food service sanitation (chapter 246-215 WAC). This includes food handler's permit for all staff.

NEW SECTION

WAC 388-140-0360 May I use the kitchen for activities for children? Children are not allowed in the kitchen of a group receiving center without age-appropriate supervision.

NEW SECTION

WAC 388-140-0365 May a room be used for more than one purpose? At your group receiving center you may use a room for multiple purposes such as playing, dining, napping, and learning activities, provided that:

(1) The room is of sufficient size; and

(2) The room's usage for one purpose does not interfere with usage of the room for another purpose.

NEW SECTION

WAC 388-140-0370 What are the general requirements for bedrooms? You must meet all the following requirements for bedrooms at a group receiving center.

(1) An adult must be on the same floor or within easy hearing distance and accessibility to where children less than six years of age are sleeping.

(2) For children six years and older, you must furnish separate sleeping quarters for each gender.

(3) Any room used for sleeping must provide adequate floor space for the safety and comfort of the child. Normally, this would be at least fifty square feet of floor space, not including closets, per child.

(4) Bedrooms must have both:

(a) Adequate ceiling height for the safety and comfort of the children (normally, at least seven and a half feet); and

(b) At least one window of not less than one-tenth of the required floor space that opens to the outside. This allows natural light into the bedroom and permits emergency access or exit.

(5) You must use only bedrooms that have unrestricted direct access to hallways, corridors, living rooms, day rooms, or other such common use areas.

(6) You must not use hallways, kitchens, living rooms, dining rooms, and unfinished basements as bedrooms.

(7) The number of beds allowed at a group receiving center is established in by the licensor in consultation with the DOH surveyor for each center.

BEDS

NEW SECTION

WAC 388-140-0375 What are the requirements for beds? (1) Children must have their own bed at a group receiving center. The bed must be at least twenty-seven inches wide with a clean and comfortable mattress in good condition.

(2) For each child in care, you must provide a pillow and pillowcase, blankets, and sheets.

(3) Pillows must be covered with waterproof material or be washable.

(4) Bedding must be clean.

(5) You must provide waterproof mattress covers or moisture resistant mattresses, if needed.

(6) You may use toddler beds with a standard crib mattress that is sufficient in length and width for the comfort of a toddler.

(7) You must not allow children to use the loft style beds or upper bunks of double-deck beds if using them due to age, development or condition could hurt them. Examples: Preschool age children and children with disabilities.

(8) If a cot is used as the bed, the licensee must ensure the child's cot is of sufficient length and width, and constructed to provide adequate comfort for the child to sleep. You must ensure that the cot surface is of a material that can be cleaned with a detergent solution, disinfected, and allowed to air dry.

(9) You must not use canvas cots.

(10) A mat may be used for napping but not as a substitute for a bed.

DIAPER CHANGING AND BATHING FACILITIES

NEW SECTION

WAC 388-140-0380 What are the requirements for diapers and diaper-changing areas? At a group receiving center, you must follow the requirements for diapers, diaper-changing rooms, and potty-chairs, if you provide care to children who are not toilet trained.

(1) You must separate diaper-changing areas from food preparation areas.

(2) You must sanitize diaper-changing areas between each use or you must use a nonabsorbent, disposable covering that is discarded after each use.

(3) For cleaning children, you must use either disposable towels or clean cloth towels that have been laundered between each use.

(4) You and any caregiver must wash hands before and after diapering each child.

(5) You must use disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family.

(6) Diaper-changing procedures must be posted at the changing areas.

(7) Diaper-changing areas must be adjacent to a hand-washing sink.

(8) The staff must be within arms-length of the child being diapered at all times while changing diapers. The use of safety belts is prohibited.

(9) Diaper-changing tables or surfaces must have a barrier or edge that is a minimum of four inches above the pad or six inches above the top of the table.

NEW SECTION

WAC 388-140-0385 What are the requirements for bathing facilities? Group receiving centers must comply with the requirements that follow.

(1) Bathing facilities must be inaccessible to preschool age and younger children when not in use.

(2) Preschool age and younger children must be supervised while using bathing facilities.

(3) Bathing facilities must be equipped with a conveniently located grab bar or other safety device such as a non-skid pad.

(4) The ratio of bathing facilities to children in care must be at least one bathing facility for eight children.

TELEPHONE/LIGHTING/VENTILATION/ WATER/WASTE DISPOSAL

NEW SECTION

WAC 388-140-0390 Do I need a telephone? (1) You must have at least one telephone on the premises for incoming and outgoing calls. The telephone must be accessible for emergency use at all times.

(2) You must post emergency phone numbers next to the phone.

NEW SECTION

WAC 388-140-0395 What are the lighting requirements? (1) You must locate light fixtures and provide lighting that promotes good visibility and comfort for the children under your care at your group receiving center.

(2) Group receiving centers must have nonhazardous light fixture covers or shatter resistant (or otherwise made safe) light bulbs or tubes.

NEW SECTION

WAC 388-140-0400 What are the requirements for ventilation? (1) You must ensure that your physical facility is ventilated for the health and comfort of the persons under your care at the group receiving center.

(2) A mechanical exhaust fan to the outside must ventilate toilets and bathrooms, and utility rooms with mop sinks that do not have windows opening to the outside.

NEW SECTION

WAC 388-140-0405 What are the requirements about drinking water? (1) You must provide the following:

(a) A public water supply or a private water supply approved by the local health authority at the time of licensing or re-licensing; and

(b) Disposable paper cups, individual drinking cups or glasses, or angled jet type drinking fountains.

(2) You must not use bubbler type fountains or common drinking cups.

NEW SECTION

WAC 388-140-0410 What are the requirements for sewage and liquid wastes? Group receiving centers must discharge sewage and liquid wastes into a public sewer system or into a functioning septic system.

LAUNDRY, SINKS, AND TOILETS

NEW SECTION

WAC 388-140-0415 What are the requirements for laundry facilities? The department has specific requirements for laundry facilities at a group receiving center.

(1) You must have separate and adequate facilities for storing soiled and clean linen.

(2) You must provide adequate laundry and drying equipment, or make other arrangements for getting laundry done on a regular basis.

(3) You must locate laundry equipment in an area separate from the kitchen and child care areas.

(4) Laundry equipment must be vented to the outdoors.

(5) You must make laundry equipment inaccessible to young children.

NEW SECTION

WAC 388-140-0420 What are the requirements for washing clothes? You must use an effective way to sanitize laundry contaminated with urine, feces, lice, scabies, or other potentially infectious materials at your group receiving center. You must sanitize laundry through temperature control or the use of chemicals.

NEW SECTION

WAC 388-140-0425 Do I need a housekeeping sink? Facilities licensed to provide emergency respite care must have and use a housekeeping sink or DOH-approved method of drawing clean mop water and disposing of the wastewater.

NEW SECTION

WAC 388-140-0430 What are the requirements for hand-washing sinks? (1) A group receiving center must supply children with warm running water for hand washing. The water must be kept at a temperature range of not less than eighty-five degrees Fahrenheit and not more than one hundred and twenty degrees Fahrenheit.

(2) The children's hand washing facilities must be located in or adjacent to rooms used for toileting.

(3) The center must provide the child with soap and individual towels or other appropriate devices for washing and drying the child's hands and face.

(4) Hand washing sinks must be of appropriate height and size for children in care or your center must furnish safe, easily cleanable platforms impervious to moisture.

(5) A group receiving center must provide:

(a) A minimum of two hand washing sinks; and

(b) A ratio of one sink for every eight children at the center.

NEW SECTION

WAC 388-140-0435 What are the requirements for toilets? (1) A group receiving center must provide a minimum of two toilets and a ratio of one toilet for every eight children at the center.

(2) Children eighteen months of age or younger and other children using toilet training equipment need not be included when determining the number of required flush-type toilets.

(3) If urinals are provided, the number of urinals must not replace more than one-third of the total required toilets.

(4) Privacy for toileting must be provided for children of the opposite sex who are six years of age and older and for other children demonstrating a need for privacy.

(5) A mounted toilet paper dispenser for each toilet must be provided.

(6) Toilets and urinals must be of appropriate height and size for children in care or your center must furnish safe, easily cleanable platforms impervious to moisture.

NEW SECTION

WAC 388-140-0440 Must a center have toilet training equipment for children? (1) A group receiving center must have developmentally appropriate toilet-training equipment, when the center serves children who are not toilet trained.

(2) The equipment must be sanitized after each child's use.

INDOOR RECREATION AREAS

NEW SECTION

WAC 388-140-0445 What are the requirements for indoor recreation areas? (1) The group receiving center's indoor premises must contain adequate area for child play

and sufficient space to house a developmentally appropriate program for the number and age range of children served.

(2) You must provide a minimum of thirty-five square feet of usable floor space per child, not counting bathrooms, hallways, and closets.

(3) You may use and consider the napping area as child care space, if there are not beds or cots on the floor space.

(4) Any room used for napping or sleeping must have a window to allow natural light into the room.

OUTDOOR RECREATION AREAS

NEW SECTION

WAC 388-140-0450 What are the requirements for an outdoor recreation area? (1) You must provide a safe and securely-fenced or department-approved, enclosed outdoor recreation area at a group receiving center.

(2) The fenced or approved enclosed outdoor recreation area must prevent child access to roadways and other dangers.

(3) The fence or enclosure must protect the play area from unauthorized exit or entry. Any fence or enclosure must be designed to discourage climbing.

(4) The outdoor recreation area must adjoin directly the indoor premises or be reachable by a safe route and method.

(5) The outdoor recreation area must promote the child's active play, physical development, and coordination.

NEW SECTION

WAC 388-140-0455 What are the size requirements for an outdoor recreation area? (1) You must ensure the recreation area at a group receiving center contains a minimum of seventy-five usable square feet per child.

(2) If not all of the children are using the outdoor recreation area at the same time, you may reduce the outdoor recreation area size by the number of children normally using the area at one time.

NEW SECTION

WAC 388-140-0460 What are the requirements for playground equipment? (1) You must provide a variety of age appropriate play equipment for climbing, pulling, pushing, riding, and balancing activities at a group receiving center.

(2) You must arrange, design, construct, and maintain equipment and ground cover to prevent child injury.

(3) The quantity of outdoor play equipment must offer the child a range of outdoor recreation options.

TRANSPORTATION

NEW SECTION

WAC 388-140-0465 Are there requirements to follow when I transport children? When you transport children under your care, you must follow these requirements.

(1) The vehicle must be kept in a safe operating condition.

(2) The driver must have a valid driver's license.

(3) There must be at least one adult other than the driver in a vehicle when:

(a) There are more than five preschool-aged children in the vehicle;

(b) Staff-to-child ratio guidelines or your contract require a second staff person; or

(c) The child's specific needs require a second adult person.

(4) The driver or owner of the vehicle must be covered under an automobile liability and insurance policy.

(5) Your vehicles must be equipped with seat belts, car seats and booster seats, and/or other appropriate safety devices for all passengers as required by law.

(6) The number of passengers must not exceed the vehicle's seat belts.

(7) All persons in the vehicle must use seat belts or approved child passenger restraint systems, as appropriate for age, whenever the vehicle is in motion.

(8) Buses approved by the state patrol are not required to have seat belts.

CLIENT RECORDS

NEW SECTION

WAC 388-140-0470 What does the department require for keeping client records? (1) Your records must be kept at your group receiving center and contain, at a minimum, the following information:

(a) The child's name and birthdate;

(b) Inventory of personal belongings at the time of placement; and

(c) Names, address and telephone numbers of department social worker to be contacted in case of emergency;

(d) Information on specific cultural needs of the child;

(e) Medical history including any medical problems, name of doctor, type of medical coverage and provider, when available;

(f) Mental health history and any current mental health and behavioral issues, including medical and psychological reports when available; and

(g) Any other pertinent information related to the child, such as his or her visitation plan.

(2) Daily center logs are required with the signature of the person making the entry in the log. The logs must document the following:

(a) Date, time, and which residents and staff are participating in an activity;

(b) Narrative to note behavior and issues of residents;

(c) Any health or safety issues;

(d) Staff to resident ratio on each shift;

(e) On-call and relief staff on duty during emergencies;

(f) The after-hours telephone number of the supervisor;

(g) Dates and illnesses or accidents while at the center;

(h) Medications and treatments given at the center with the child's name;

(i) A copy of any suspected child abuse and/or neglect referrals made to children's administration; and

(j) Other information determined relevant by the department.

(3) Identifying and personal information about the child and their family must be kept confidential, unless permission has been given for release by the parent.

(4) You must keep information about the child and their families in a secure place.

(5) You must keep client files containing information not returned to the department, you must keep them for six years following the termination or expiration of any contract you have with the department.

NEW SECTION

WAC 388-140-0475 What written information is needed before a child is admitted to a center? Before accepting a child for care at a group receiving center you must obtain the following written consent and information from the placing authority:

- (1) Permission authorizing the placement of the child;
- (2) Permission to seek emergency medical care or surgery on behalf of the child;
- (3) The name and telephone number of the children's administration's social worker and emergency contacts; and
- (4) Basic medical information, including current medication, known allergies, and at-risk behaviors of the child.

CLIENT PROTECTION

NEW SECTION

WAC 388-140-0480 What are the requirements for protecting a child under my care from abuse and neglect? As part of ensuring a child's health, welfare and safety, you must protect children under your care from all forms of child abuse and neglect (see RCW 26.44.020(12) and chapter 388-15 WAC for more details).

NEW SECTION

WAC 388-140-0485 What are the nondiscrimination requirements? You must follow all state and federal laws regarding nondiscrimination while providing services to children at your group receiving center.

NEW SECTION

WAC 388-140-0490 Do I have to admit or retain all children at the center? A group receiving center has the right to refuse to admit or retain a child who can not be served safely or who may pose a significant risk to other children.

NEW SECTION

WAC 388-140-0495 What must I consider in assigning work to children in my home or facility? (1) Children may do regular "household" tasks without payment.

(2) Children may do work assignments other than "household" tasks that are appropriate to their age and physical conditions and receive monetary compensation if this is part of their service plan.

CLIENT RIGHTS

NEW SECTION

WAC 388-140-0500 Do I have responsibility for a child's personal hygiene? (1) You must provide or arrange for children under your care to have items needed for grooming and personal hygiene.

(2) You must assist these children in using these items, based on the child's developmental needs.

(3) Clothing must be clean and age-appropriate.

NEW SECTION

WAC 388-140-0505 Does each child need space for personal items at the center? You must provide separate space for the storage of personal items such as clothing, radios, and toys for each child at your group receiving center.

DISCIPLINE

NEW SECTION

WAC 388-140-0510 What requirements must I follow when disciplining children? (1) You are responsible for disciplining children in your care. This responsibility may not be delegated to a child.

(2) Discipline must be based on an understanding of the child's needs and stage of development.

(3) Discipline must be designed to help the child under your care to develop inner control, acceptable behavior and respect for the rights of others.

(4) Discipline must be fair, reasonable, consistent, and related to the child's behavior.

(5) Your discipline must comply with children's administration's behavior management guidelines for residential programs.

NEW SECTION

WAC 388-140-0515 What types of disciplinary practices are forbidden? (1) You must not use cruel, unusual, frightening, unsafe or humiliating discipline practices, including but not limited to:

- (a) Spanking children with a hand or object;
- (b) Biting, jerking, kicking, hitting, or shaking the child;
- (c) Pulling the child's hair;
- (d) Throwing the child;
- (e) Purposely inflicting pain as a punishment;
- (f) Name-calling or using derogatory comments;
- (g) Threatening the child with physical harm;
- (h) Threatening or intimidating the child; or
- (i) Placing or requiring a child to stand under a cold water shower.

(2) You must not use discipline methods that interfere with a child's basic needs. These include, but are not limited to:

- (a) Depriving the child of sleep;
- (b) Depriving the child of adequate food, clothing or shelter;
- (c) Restricting a child's breathing;
- (d) Interfering with a child's ability to take care of their own hygiene and toilet needs; or
- (e) Providing inadequate medical or emergency dental care.

(3) You must not use medication in an amount or frequency other than that prescribed by a physician or psychiatrist.

(4) You must not give one child's medications to another child.

(5) You must not use medication for behavior management unless a physician prescribes the medication to control that child's behavior.

NEW SECTION

WAC 388-140-0520 Does the department require a written statement describing my discipline methods? (1) With your application and re-application for licensure, you must provide a written statement describing the discipline methods you use, including your de-escalation and restraint policies and procedures.

(2) If your discipline methods change, you must immediately provide a new statement to your licensor describing your current practice.

PHYSICAL RESTRAINT

NEW SECTION

WAC 388-140-0525 What types of physical restraint are acceptable? (1) You must use efforts other than physical restraint to redirect or de-escalate a situation.

(2) You must comply with children's administration's behavior management guidelines for residential programs for child de-escalation and physical restraint

(3) If a child's behavior poses an immediate risk to physical safety, you may use a physical restraint on a child. The restraint must be reasonable and necessary to:

- (a) Prevent a child on the premises from harming himself/herself or others; or
- (b) Protect property from serious damage.

NEW SECTION

WAC 388-140-0530 What types of physical restraint are not acceptable for children? You must not use:

- (1) Physical restraint as a form of punishment or discipline;
- (2) Mechanical restraints, such as handcuffs and belt restraints;
- (3) Locked time-out rooms; or

(4) Physical restraint techniques that restrict breathing, or inflict pain as a strategy for behavior control, or that might injure a child. These include, but are not limited to:

- (a) Restriction of body movement by placing pressure on joints, chest, heart, or vital organs;
- (b) Sleeper holds, which are holds used by law enforcement officers to subdue a person;
- (c) Arm twisting;
- (d) Hair holds;
- (e) Choking or putting arms around the throat; or
- (f) Chemical restraints, including but not limited to pepper spray.

NEW SECTION

WAC 388-140-0535 What must I do following an incident that involved using physical restraint? The director or program manager of a group receiving center must review any incident with the staff who used physical restraint to ensure that the decision to use physical restraint and its application were appropriate.

NEW SECTION

WAC 388-140-0540 What incidents involving children must I report? (1) You or your staff at a group receiving center must report any of the following incidents immediately to children's administration intake staff:

- (a) Any reasonable cause to believe that a child has suffered child abuse or neglect;
 - (b) Any violations of the licensing or certification requirements;
 - (c) Death of a child;
 - (d) Any child's suicide attempt that results in injury requiring medical treatment or hospitalization;
 - (e) Any use of physical restraint that is alleged to be improper, excessive, or results in injury;
 - (f) Sexual contact between two or more children that is not considered typical play between pre-school age children;
 - (g) Any disclosures of sexual or physical abuse by a child in care;
 - (h) Physical assaults between two or more children that result in injury requiring off-site medical treatment or hospitalization;
 - (i) Any medication that is given incorrectly and requires off-site medical treatment;
 - (j) Serious property damage that is a safety hazard and is not immediately corrected; or
 - (k) Anytime a child refuses to take any medication that may result in a situation that is life threatening.
- (2) You or your staff must report immediately, any of the following incidents, to the child's social worker:
- (a) Suicidal/homicidal ideation, gestures, or attempts that do not require professional medical treatment;
 - (b) Unexpected health problems that require professional medical attention or raise questions for the staff;
 - (c) Any significant incident of medication administered incorrectly;

(d) Physical assaults between two or more children that resulted in injury but did not require professional medical treatment;

(e) Runaways;

(f) Any emergency medical or psychiatric care that requires offsite attention; and

(g) Use of physical restraints for routine behavior management.

STAFFING RATIO

NEW SECTION

WAC 388-140-0545 What is the ratio of child care staff to children at a center? The department has specific requirements for the ratio of child care staff to children at group receiving centers.

(1) At least two staff, including at least one child care staff person, must be on site whenever children are on the premises.

(2) The ratio for a group receiving center is at least one child care staff person on site for every four children who are under six during waking and sleeping hours.

(3) The ratio for a group receiving center is at least one child care staff person on site for every six children age six years and older, during waking and sleeping hours.

(4) The center may only provide care for two or more of the following age groups: Age two through five, six through twelve, and thirteen through seventeen, if a DLR approved safety plan addressing this circumstance is fully in effect.

(5) If the center provides care for children under age six and children six and older, you may allow common activities for the children of different age groups provided you maintain the staffing ratio designated for the youngest child in the group and have an approved safety plan in place.

(6) To keep the proper ratio of staff to children, the executive director, on-site program manager, support staff, and maintenance staff may serve temporarily as child care staff if they have adequate training and are performing child care staff duties.

(7) You must have relief staff so that all staff can have the equivalent of two days off a week.

(8) If you have more than one program in one building, such as a group receiving center and a crisis residential center, you must follow the most stringent staffing ratio requirements.

SUPERVISION OF CHILDREN

NEW SECTION

WAC 388-140-0550 What are the requirements for supervision of children at the center? (1) A group receiving center must operate under a DLR approved, written supervision and safety plan for the children in care.

(2) A group receiving center must provide or arrange for care and supervision that is appropriate and assures the safety of each child depending on:

(a) The child's age, developmental level, and condition;

(b) The activities, including recreation, the child is involved in; and

(c) The age and gender of other children involved in any group activity.

(3) At a group receiving center, children under age six must be within visual range at all times during waking hours.

(4) You must ensure that the staff providing direct care and supervision of the children is free of other duties at the time of care.

(5) When a child has exhibited behavior that posed a safety risk to other children in a previous placement or the placing agency believes the child poses a risk to other children the placing agency must inform the provider and jointly develop a plan to address the risk.

(6) When a child exhibits behavior that poses a safety risk to other children in care, sleeping arrangements, bedroom assignments, and shared activity plans must be made, in consultation with the child's social worker, to ensure the safety of other children.

(7) Group receiving centers must supervise children who help with activities involving food preparation, based on their age and skills.

(8) Preschool children and children with severe developmental disabilities must not be left unattended in a bathtub or shower at a group receiving center.

(9) Staff and others caring for children at a group receiving center must provide the children with:

(a) Appropriate adult supervision;

(b) Emotional support;

(c) Personal attention; and

(d) Structured daily routines and living experiences.

STAFF POSITIONS AND QUALIFICATIONS

NEW SECTION

WAC 388-140-0560 Are there general qualifications for all staff in a group receiving center? You, your staff, and other persons at a group receiving center who have access to the children must be able to demonstrate the understanding, ability, personality, emotional stability, and physical health suited to meet the cultural, emotional, mental, physical, and social needs of the children in care.

NEW SECTION

WAC 388-140-0565 What are the qualifications for an executive director for a group receiving center? (1) A group receiving center executive director or person responsible for the agency administration, agency oversight, and fiscal operation must meet, at a minimum, the requirements that follow.

(a) Be able to communicate to the department the roles, expectations and purposes of the program; and

(b) Work with representatives of other agencies.

(2) They must also meet one of these education or experience requirements:

(a) Have a bachelor's degree in business management or administration, or related field from an accredited school; or

(b) Have a minimum of two years of successful, full-time relevant experience.

NEW SECTION

WAC 388-140-0570 What are the responsibilities of the director? (1) The director of a group receiving center is responsible for the overall management of the center's facility and operation.

(2) The director serves as the administrator of the center.

(3) The director must ensure the group receiving center complies with the licensing requirements contained in this chapter.

NEW SECTION

WAC 388-140-0575 What are the qualifications for the on-site program manager? Each on-site program manager must have the following qualifications:

(1) A bachelor's degree in a social service or closely related field from an accredited school; or

(2) Five years of successful full-time experience in a relevant field; and

(3) Supervisory abilities that promote effective staff performance; and

(4) Relevant experience, training, and demonstrated skills in each area that he or she will be supervising.

(5) The same person may have the responsibilities of the executive director and the on-site program manager if that person meets the qualifications for both positions.

NEW SECTION

WAC 388-140-0580 Do I need an on-site program manager at each group receiving center? Each group

receiving center must have an on-site program manager or person with the equivalent training and experience at each facility during business hours.

NEW SECTION

WAC 388-140-0585 What are the responsibilities of the program manager or supervisor? The on-site program manager has the following responsibilities:

(1) Coordinates the day-to-day operations of the program;

(2) Supervises the child care staff;

(3) Oversees the completion of each child's assessment or plan of care.

NEW SECTION

WAC 388-140-0590 What qualifications must the child care staff for a group receiving center have? The child care staff person of a group receiving center is responsible for the care, supervision, and behavior management of children under your care. The department requires that child care staff of a group receiving center:

(1) Be at least twenty-one years old;

(2) Exception: Child care staff may be eighteen to twenty years old if enrolled and participating in an internship or practicum program with an accredited college or university; and supervised by staff twenty-one years or older;

(3) Have a high school diploma or GED;

(4) Have one year of experience working with children;

(5) Have the skills and abilities to work successfully with the challenging behaviors of children in care; and

(6) Have effective communication and problem solving skills.

NEW SECTION

WAC 388-140-0595 What are the minimum qualifications and training requirements for group receiving center staff?

Position	Qualifications	Background Check	TB Test	Food Handlers Permit	First Aid and CPR	HIV/AIDS & Blood Borne Pathogens Training
Director	<ul style="list-style-type: none"> • Twenty-one years of age; • Bachelor's degree in business management or administration or a related field; or • Two years of relevant experience. 	X	X	X	X	X
On-site Program Manager	<ul style="list-style-type: none"> • Twenty-one years of age; • Bachelor's degree in social services or a related field; or • Five years of experience in relevant field. 	X	X	X	X	X
Child Care Worker	<ul style="list-style-type: none"> • Twenty-one years of age. • High school diploma or GED. • One year of experience caring for children. 	X	X	X	X	X

EMERGENCY

NEW SECTION

WAC 388-140-0600 May one person hold two positions at a center? (1) The director or program manager at a group receiving center may be one and the same person when qualified for both positions.

(2) The director and program manager may also serve as child care staff when the role does not interfere with the director's or program manager's responsibilities.

NEW SECTION

WAC 388-140-0605 Who must be on the premises while children are in care at a center? (1) The director or program manager at a group receiving center must normally be on the premises during daytime hours when children are in care.

(2) If temporarily absent (for two hours or less) from the center, the director and program manager must leave a competent, designated staff person in charge. This person must meet the qualifications of child care staff person.

NEW SECTION

WAC 388-140-0610 What clerical, accounting and administrative services do I need? You must have sufficient clerical, accounting and administrative services to maintain proper records and carry out your program at a group receiving center.

NEW SECTION

WAC 388-140-0615 What support and maintenance staff do I need? You must have sufficient support and maintenance services to maintain and repair your facility and prepare and serve meals at a group receiving center.

STAFF TRAININGNEW SECTION

WAC 388-140-0620 What staff training is required? (1) All staff working at a group receiving center (GRC) must complete a minimum of sixteen hours of pre-service job orientation prior to beginning unsupervised child care responsibilities. Training must include:

(a) Presentation of the group receiving centers policies and procedures as well and the standards contained in this chapter;

(b) Behavior management techniques;

(c) Crisis intervention techniques;

(d) Family dynamics and family intervention techniques;

(e) Child abuse and neglect reporting requirements;

(f) Youth supervision requirements; and

(g) HIV/AIDS/Blood-borne pathogen training.

(2) Staff working at a group receiving center must complete a minimum of twenty-four hours of on-going education and in-service training annually. This training must include:

(a) Crisis intervention techniques, including verbal de-escalation, positive behavior support, and physical response/restraint training as approved by the department;

(b) Behavior management techniques;

(c) Substance abuse;

(d) Suicide assessment and intervention;

(e) Family intervention techniques;

(f) Cultural diversity;

(g) Mental health issues and interventions;

(h) Mediation skills;

(i) Conflict management/problem-solving skills;

(j) Physical and sexual abuse;

(k) Characteristics and management of sexually aggressive and physically assaultive behavior;

(l) Monthly fire drill practice and disaster training for each staff.

(3) You must record the amount of time and type of training provided to staff.

(4) This information must be kept in each employee's file or in a separate training file.

PROGRAM ACTIVITIES AND TOYSNEW SECTION

WAC 388-140-0625 What are the requirements for an activity program? (1) You must provide an activity program at a group receiving center that is designed to meet the developmental, cultural, and individual needs of the children served at a group receiving center.

(2) You must ensure the group receiving center's activity program allows time for children to have daily opportunities for small and large muscle activities and outdoor play.

(3) You must operate the group receiving center's activity program under a regular schedule of activities with allowances for a variety of special events.

(4) You must provide a planned program of activities and have a current, written activity schedule.

(5) You must provide appropriate supervision for the number of children participating in any activity.

NEW SECTION

WAC 388-140-0630 What activities must I provide to children? (1) Activities must be designed for the developmental stages of the children you serve at a group receiving center, allowing a balance between:

(a) Child-initiated and staff-initiated activities;

(b) Free play and organized events;

(c) Individual and group activities; and

(d) Quiet and active experiences.

(2) You must ensure that children at a group receiving center are grouped to ensure the safety of children.

NEW SECTION

WAC 388-140-0635 Do I need to provide recreational equipment? (1) You must provide safe and suitable recreational equipment for all children in your care at a group receiving center.

(2) You must have toys that relate to the different developmental stages of the children you serve at a group receiving center.

WSR 03-13-007
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed June 4, 2003, 3:58 p.m.]

Date of Adoption: May 29, 2003.

Purpose: To continue emergency rules filed on February 19, 2003, as WSR 03-05-098. The department has initiated permanent rule-making proceedings by filing a proposed rule-making notice on April 8, 2003, as WSR 03-09-042. These rules amend chapter 388-71 WAC (see below) and adopt new WAC 388-515-1540 to establish the medically needy residential waiver (MNRW) program.

Amending, clarifying, and reorganizing community options program entry system rules to:

- Comply with the Governor's Executive Order 97-02 and the Secretary's Order on Regulatory Improvement;
- Reflect changes in program requirements and/or options.

EHB 1341 (chapter 269, Laws of 2001) authorizes DSHS to develop a new waiver program for individuals in need of long-term care services in the community. The legislation specifically requires the department to adopt rules to establish eligibility criteria, applicable income standards, and specific waiver services to be provided. This change is also necessary to reflect amendments to the COPES waiver.

This amendment is necessary to implement two-year old legislation and will result in budget savings, will afford clients choice in their long-term care, and will result in more efficient care and increased service delivery, making it consistent with the preservation of public health and general welfare. This new program will allow individuals who cannot afford community residential care and who do not wish to go into a nursing facility, access to long-term care that they could otherwise not afford. For the past two years, many individuals in Washington state have gone into nursing facilities because they had no other choice for receiving care. Not only did this eliminate client choice, but it cost the state more to care for these individuals. DSHS has been waiting for CMS approval to implement this program and just recently received it. We are not expecting any opposition to this rule and many clients have been waiting for this opportunity for years.

Citation of Existing Rules Affected by this Order: Amending WAC 388-71-0194, 388-71-0202, 388-71-0203, 388-71-0405, 388-71-0410, 388-71-0415, 388-71-0420, 388-71-0425, 388-71-0430, 388-71-0435, 388-71-0442, 388-71-0445, 388-71-0465, 388-71-0470, 388-71-0480, 388-71-0600, 388-71-0605, and 388-71-0610.

Statutory Authority for Adoption: SHB 1341 (chapter 269, Laws of 2001), RCW 74.09.700 and chapter 74.39 RCW, RCW 74.08.090, 74.04.050 and 74.09.575.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This amendment is necessary to implement immediate budget savings, will afford clients choice in their long-term care, and will result in more efficient care and increased service delivery, making it consistent with the preservation of public health and general welfare. DSHS has been waiting for CMS approval to implement this program and just recently received it. This new program will allow individuals who cannot afford community residential care and who do not wish to go into a nursing facility, access to long-term care that they could otherwise not afford. For the past two years, many individuals in Washington state have gone into nursing facilities because they had no other choice for receiving care. Not only did this eliminate client choice, but it cost the state more to care for these individuals.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 18, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 18, Repealed 0.

Effective Date of Rule: Immediately.

May 29, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-515-1540 Medically needy residential waiver (MNRW) effective March 17, 2003. This section describes the financial eligibility requirements for waiver services under the medically needy residential waiver (MNRW) and the rules used to determine a client's responsibility in the total cost of care.

(1) To be eligible for MNRW, a client must meet the following conditions:

(a) Does not meet financial eligibility for Medicaid Personal Care or the COPES program;

(b) Is eighteen years of age or older;

(c) Meets the SSI related criteria described in WAC 388-511-1105(1);

(d) Requires the level of care provided in a nursing facility as described in WAC 388-71-0700;

(e) In the absence of waiver services described in WAC 388-71-0410 and 388-71-0415, would continue to reside in a medical facility as defined in WAC 388-513-1301, or will likely be placed in one within the next thirty days;

(f) Has attained institutional status as described in WAC 388-513-1320;

(g) Has been determined to be in need of waiver services as described in WAC 388-71-0442;

(h) Lives in one of the following department-contracted residential facilities:

(i) Licensed adult family home (AFH);

(ii) Assisted living (AL) facility; or

(iii) Enhanced Adult Residential Care (EARC) facility.

(i) Is not subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1364, 388-513-1365 and 388-513-1366; and

(j) Meets the resource and income requirements described in subsections (2) through (6).

(2) The department determines a client's nonexcluded resources under MNRW as described in WAC 388-513-1350 (1) through (4)(a) and WAC 388-513-1360;

(3) Nonexcluded resources, after disregarding excess resources described in (4), must be at or below the resource standard described in WAC 388-513-1350 (1) and (2).

(4) In determining a client's resource eligibility, the department disregards excess resources above the standard described in subsection (3) of this section:

(a) In an amount equal to incurred medical expenses such as:

(i) Premiums, deductibles, and co-insurance/co-payment charges for health insurance and Medicare premiums;

(ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan; or

(iii) Necessary medical care covered under the state's Medicaid plan.

(b) As long as the incurred medical expenses:

(i) Are not subject to third-party payment or reimbursement;

(ii) Have not been used to satisfy a previous spend down liability;

(iii) Have not previously been used to reduce excess resources;

(iv) Have not been used to reduce client responsibility toward cost of care; and

(v) Are amounts for which the client remains liable.

(5) The department determines a client's countable income under MNRW in the following way:

(a) Considers income available described in WAC 388-513-1325 and 388-513-1330 (1), (2), and (3);

(b) Excludes income described in WAC 388-513-1340;

(c) Disregards income described in WAC 388-513-1345;

(d) Deducts monthly health insurance premiums, except Medicare premiums.

(6) If the client's countable income is:

(a) less than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW subject to availability per WAC 388-71-0465;

(b) more than the residential facility's department-contracted rate, based on an average of 30.42 days in a month the client may qualify for MNRW when they meet the requirements described in subsections (7) through (9), subject to availability per WAC 388-71-0465.

(7) The portion of a client's countable income over the department-contracted rate is called "excess income."

(8) A client who meets the requirements for MNRW chooses a three or six month base period. The months must be consecutive calendar months.

(9) A client who has or will have "excess income" is not eligible for MNRW until the client has medical expenses which are equal in amount to that excess income. This is the process of meeting "spenddown." The excess income from each of the months in the base period is added together to determine the total "spenddown" amount.

(10) Medical expenses described in subsection (4) of this WAC may be used to meet spenddown if not already used in subsection (4) of this WAC to disregard excess resources or to reduce countable income as described in subsection (5)(d).

(11) In cases where spenddown has been met, medical coverage begins the day services are authorized.

(12) The client's income that remains after determining available income in WAC 388-513-1325 and 388-513-1330 (1), (2), (3) and excluded income in WAC 388-513-1340 is paid towards the cost of care after deducting the following amounts in the order listed:

(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Personal needs allowance (PNA) described in WAC 388-515-1505 (7)(b);

(c) Medicare and health insurance premiums not used to meet spenddown or reduce excess resources;

(d) Incurred medical expenses described in (4) not used to meet spenddown or reduce excess resources.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0194 Home and community services—Nursing services. (1) A registered nurse will review the plan of care for all Medicaid personal care clients.

(2) Upon department or designee referral, a registered nurse will consult about or visit a Community Options Program Entry System client, Medically Needy Residential waiver client or a Medicaid personal care client to perform a nursing service which may include the following activities:

(a) Nursing assessment/reassessment;

(b) Instruction to care providers and clients;

(c) Care coordination;

(d) Evaluation.

(3) The frequency and scope of the nursing service will be based on individual client need and will be provided as outlined in a nursing service design developed in coordination with each area agency on aging. Each design will include critical indicators of the need for the nursing service and must be approved by the following divisions as appropriate: aging and adult services administration, developmental disabilities, children's administration and mental health.

(4) This nursing service will not be provided if activities duplicate services that the client is receiving from some other resource. Coordination and/or referrals to appropriate health care providers will occur as necessary.

(5) The registered nurse providing this service will not perform skilled treatment except in the event of an emergency. The need for any skilled medical or nursing treatments will be referred to a health care provider, a home health agency or a contracted delegating nurse.

(6) The registered nurse must document the result of the nursing service provided on a department-approved form. The registered nurse provides a copy to the staff who has case management responsibility.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0202 Long-term care services—Definitions. The department shall use the definition in this section for long-term care services.

"Long-term care services" means the services administered directly or through contract by the aging and adult services administration of the department, including but not limited to nursing facility care and home and community services.

"Aged person" means a person sixty-five years of age or older.

"Agency provider" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to a client in the client's own home.

"Application" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant shall submit the request on a form prescribed by the department.

"Assessment" or **"reassessment"** means an inventory and evaluation of abilities and needs based on an in-person interview in the client's own home or other place of residence.

"Attendant care" means the chore personal care service provided to a grandfathered client needing full-time care due to the client's need for:

- (1) Assistance with personal care; or
- (2) Protective supervision due to confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume such as management of property and financial affairs.

"Authorization" means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

~~("Available resources" is a term to describe a chore personal care client's assets accessible for use and conversion into money or its equivalent without significant depreciation in the property value.)~~

"Blind person" means a person determined blind as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Categorically needy" means the financial status of a person as defined under WAC 388-503-0310.

"Client" means an applicant for service or a person currently receiving services.

"Community residence" means:

- (1) The client's **"own home"** as defined in this section;
- (2) Licensed adult family home under department contract;
- (3) Licensed boarding home under department contract;
- (4) Licensed children's foster home;
- (5) Licensed group care facility, as described in chapter 388-148 WAC; or
- (6) Shared living arrangement as defined in this section.

"Community spouse" means a person as described under WAC 388-513-1365 (1)(b).

"Companionship" means the activity of a person in a client's own home to prevent the client's loneliness or to accompany the client outside the home for other than personal care services.

"Contracted program" means services provided by a licensed and contracted home care agency or home health agency.

"COPEs" means community options program entry system.

"Department" means the state department of social and health services.

"Direct personal care services" means verbal or physical assistance with tasks involving direct client care which are directly related to the client's handicapping condition. Such assistance is limited to allowable help with the tasks of ambulation, bathing, body care, dressing, eating, personal hygiene, positioning, self-medication, toileting, transfer, as defined in **"personal care services"** below.

"Disabled" means a person determined disabled as described under WAC 388-511-1105 by the division of disability determination services of the medical assistance administration.

"Disabling condition" means a condition which prevents a person from self-performance of personal care tasks without assistance.

"Estate recovery" means the department's activity in recouping funds after the client's death which were expended for long-term care services provided to the client during the client's lifetime per WAC 388-527-2742.

"Grandfathered client" means a chore personal care services client approved for either:

- (1) Attendant care services provided under the chore personal care program when these services began before April 1, 1988; and
- (2) Family care services provided under the chore personal care program when these services began before December 14, 1987; and
- (3) The client was receiving the same services as of June 30, 1989.

"Home health agency" means a licensed:

(1) Agency or organization certified under Medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

(2) Home health agency, certified or not certified under Medicare, contracted and authorized to provide:

(a) Private duty nursing; or

(b) Skilled nursing services under an approved Medicaid waiver program.

"Household assistance" means assistance with incidental household tasks provided as an integral, but subordinate part of the personal care furnished directly to a client by and through the long-term care programs as described in this chapter. Household assistance is considered an integral part of personal care when such assistance is directly related to the client's medical or mental health condition, is reflected in the client's service plan, and is provided only when a client is assessed as needing personal care assistance with one or more direct personal care tasks. Household assistance tasks include travel to medical services, essential shopping, meal preparation, laundry, housework, and wood supply.

"Income" means **"income"** as defined under WAC 388-500-0005.

"Individual provider" means a person employed by a community options program entry system (COPES) or Medicaid personal care client when the person:

(1) Meets or exceeds the qualifications as defined under WAC 388-71-0500 through 388-71-0580;

(2) Has signed an agreement to provide personal care services to a client; and

(3) Has been authorized payment for the services provided in accordance with the client's service plan.

"Individual provider program (IPP)" means a method of chore personal care service delivery where the client employs and supervises the chore personal care service provider.

"Institution" means an establishment which furnishes food, shelter, medically-related services, and medical care to four or more persons unrelated to the proprietor. **"Institution"** includes medical facilities, nursing facilities, and institutions for the mentally retarded, but does not include correctional institutions.

"Institutional eligible client" means a person whose eligibility is determined under WAC 388-513-1315. **"Institutionalized client"** means the same as defined in WAC 388-513-1365(f).

"Institutional spouse" means a person described under WAC 388-513-1365 (1)(e).

"Medicaid" means the federal aid Title XIX program under which medical care is provided to:

(1) Categorically needy as defined under WAC 388-503-0310; and

(2) Medically needy as defined under WAC 388-503-0320.

"Medical assistance" means the federal aid Title XIX program under which medical care is provided to the categor-

ically needy as defined under WAC 388-503-0310 and 388-503-1105.

"Medical institution" means an institution defined under WAC 388-500-0005.

"Medically necessary" and **"medical necessity"** mean the same as defined under WAC 388-500-0005.

"Medically oriented tasks" means direct personal care services and household assistance provided as an integral but subordinate part of the personal care and supervision furnished directly to a client.

"Mental health professional" means a person defined under WAC 388-865-0150.

"Own home" means the client's present or intended place of residence:

(1) In a building the client rents and the rental is not contingent upon the purchase of personal care services as defined in this section; or

(2) In a building the client owns; or

(3) In a relative's established residence; or

(4) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

"Personal care aide" means a person meeting the department's qualification and training requirements and providing direct ((Medicaid)) personal care services to a client. The personal care aide may be an employee of a contracted agency provider or may be an individual provider employed by the ((Medicaid personal care)) client.

"Personal care services" means both physical assistance and/or prompting and supervising the performance of direct personal care tasks and household tasks, as listed in (1) through (17) of this subsection. Such services may be provided for clients who are functionally unable to perform all or part of such tasks or who are incapable of performing the tasks without specific instructions. Personal care services do not include assistance with tasks performed by a licensed health professional.

(1) **"Ambulation"** means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant or standby physical assistance to the client if totally unable to walk alone or with a mechanical device.

(2) **"Bathing"** means assisting a client to wash. Bathing includes supervising the client able to bathe when guided, assisting the client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(3) **"Body care"** means assisting the client with exercises, skin care including the application of nonprescribed ointments or lotions, changing dry bandages or dressings when professional judgment is not required and pedicure to trim toenails and apply lotion to feet. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services, dressing changes using clean technique and topical ointments must be delegated by a reg-

istered nurse in accordance with chapter 246-840 WAC.

"Body care" excludes:

(a) Foot care for clients who are diabetic or have poor circulation; or

(b) Changing bandages or dressings when sterile procedures are required.

(4) **"Dressing"** means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(5) **"Eating"** means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(6) **"Essential shopping"** means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health, maintenance, and well-being of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(7) **"Housework"** means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(8) **"Laundry"** means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(9) **"Meal preparation"** means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(10) **"Personal hygiene"** means assistance with care of hair, teeth, dentures, shaving, filing of nails, and other basic personal hygiene and grooming needs. Personal hygiene includes supervising the client when performing the tasks, assisting the client to care for the client's own appearance, and performing grooming tasks for the client when the client is unable to care for own appearance.

(11) **"Positioning"** means assisting the client to assume a desired position, assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits or exercises to maintain the highest level of functioning which has already been attained and/or to prevent the decline in physical functional level. (Range of motion ordered as part of a physical therapy treatment is not included.)

(12) **"Self-medication"** means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(13) **"Supervision"** means being available to:

(a) Help the client with personal care tasks that cannot be scheduled, such as toileting, ambulation, transfer, positioning, some medication assistance; and

(b) Provide protective supervision to a client who cannot be left alone because of impaired judgment.

(14) **"Toileting"** means assistance with bladder or bowel functions. Toileting includes guidance when the client is able to care for own toileting needs, helping client to and from the bathroom, assisting with bedpan routines, using incontinent briefs on client, and lifting client on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the client when client is able to supervise the activities. In adult family homes or in licensed boarding homes contracting with DSHS to provide assisted living services colostomy care and catheterization using clean technique must be delegated by a registered nurse in accordance with chapter 246-840 WAC.

(15) **"Transfer"** means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(16) **"Travel to medical services"** means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(17) **"Wood supply"** means splitting, stacking, or carrying wood for the client when the client uses wood as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. The department shall not allow payment for a provider to use a chain saw or to fell trees.

"Physician" means a doctor of medicine, osteopathy, or podiatry, as defined under WAC 388-500-0005.

"Plan of care" means a **"service plan"** as described under WAC ((388-71-205)) 388-71-0205.

"Property owned" means any real and personal property and other assets over which the client has any legal title or interest.

"Provider" or **"provider of service"** means an institution, agency, or person:

(1) Having a signed department agreement to furnish long-term care client services; and

(2) Qualified and eligible to receive department payment.

"Relative" means:

(1) For chore personal care service, a client's spouse, father, mother, son, or daughter;

(2) For Medicaid personal care service:

(a) **"Legally responsible relative"** means a spouse caring for a spouse or a biological, adoptive, or stepparent caring for a minor child.

(b) **"Nonresponsible relative"** means a parent caring for an adult child and an adult child caring for a parent.

"Service plan" means a plan for long-term care service delivery as described under WAC ((388-71-205)) 388-71-0205.

"Shared living arrangement" for purposes of Medicaid personal care means an arrangement where:

(1) A nonresponsible relative as defined in **"relative"** above is the personal care provider and resides in the same residence with common facilities, such as living, cooking, and eating areas; or

(2) A minor child age seventeen or younger lives in the home of a legally responsible relative as defined in **"relative"** above.

"SSI-related" means a person who is aged, blind, or disabled.

"Supervision" means a person available to a long-term care client as defined under **"personal care services."**

"Supplemental Security Income (SSI)" means the federal program as described under WAC 388-500-0005.

"Title XIX" is the portion of the federal Social Security Act which authorizes federal funding for medical assistance programs, e.g., nursing facility care, COPES, Medically Needy Residential waiver and Medicaid personal care home and community-based services.

"Transfer of resources" means the same as defined under WAC 388-513-1365 (1)(g).

"Unscheduled tasks" means ambulation, toileting, transfer, positioning, and unscheduled medication assistance as described in this chapter.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0203 Long-term care services—Assessment of task self-performance and determination of required assistance. (1) Purpose. The assessor as identified in subsection (2)(a) of this section shall:

(a) Identify client strengths to maximize current strengths and promote client independence;

(b) Evaluate physical health, functional and cognitive abilities, social resources and emotional and social functioning for service planning for long-term care;

(c) Identify client values and preferences for effective service planning based on the person's values and lifestyles; and

(d) Determine client's need for informal support, community support and services, and department paid services.

(2) Assessment responsibility.

(a) Department staff or designee while assessing need for case management shall perform the assessment.

(b) Except for adult protective service, the assessors shall perform a separate assessment for each client.

(c) The assessors shall document the assessment on a prescribed form.

(d) The assessors shall perform the assessment based on an in-person interview with the client in the client's home. A case manager may request the assessment be conducted in private.

(e) When performing the assessment, the assessors shall take into account the client's:

(i) Risk of and eligibility for nursing facility placement;

(ii) Health status, psychological/social/cognitive functioning, income and resources, and functional abilities;

(iii) Living situation; and

(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(3) The adult client's functional ability to self-perform each personal care task and household task shall be determined using the following definitions of the assistance required:

(a) Ambulation:

(i) Independent. The client is mobile, with or without an assistive device, both inside and outside the household without the assistance of another person.

(ii) Minimal. The client is mobile inside without assistance but needs the assistance of another person outside; or the client needs occasional assistance of another person inside, and usually needs assistance of another person outside.

(iii) Substantial. The client is only mobile with regular assistance of another person both inside and outside.

(iv) Total. The client is not mobile.

(b) Bathing:

(i) Independent. The client can bathe self.

(ii) Minimal. The client requires oversight help or reminding only. The client can bathe without assistance or supervision, but must be reminded some of the time; or the client cannot get into the tub alone and physical help is limited to stand-by assist only.

(iii) Substantial. The client requires physical help in a large part of the bathing activity, for example, to lather, wash, and/or rinse own body or hair.

(iv) Total. The client is dependent on others to provide a complete bath.

(c) Body care:

(i) Independent. The client can apply ointment, lotion, change bandages or dressings, and perform exercises without assistance.

(ii) Minimal. The client requires oversight help or reminding only, or requires occasional assistance.

(iii) Substantial. The client requires limited physical help to apply ointment, lotion, or to perform dry bandage or dressing change.

(iv) Total. The client is dependent on others to perform all required body care.

(d) Dressing:

(i) Independent. The client can dress and undress without assistance or supervision.

(ii) Minimal. The client can dress and undress, but may need to be reminded or supervised to do so on some days; the client can assist dressing and undressing, but frequently or most of the time needs some physical assistance.

(iii) Substantial. The client always needs assistance to do parts of dressing and undressing.

(iv) Total. The client is dependent on others to do all dressing and undressing.

(e) Eating:

(i) Independent. The client can feed self, chew and swallow solid foods without difficulty, or can feed self by stomach tube or catheter.

(ii) Minimal. The client:

(A) Can feed self, chew and swallow foods, but needs reminding to maintain adequate intake;

(B) May need food cut up;

(C) Can feed self only if food is brought to the client.

(iii) Substantial. The client:

(A) Can feed self but needs standby assistance for occasional gagging, choking, or swallowing difficulty; or

(B) Needs reminders/assistance with adaptive feeding equipment; or

(C) Must be fed some or all food by mouth by another person.

(iv) Total. The client must be totally fed by another person and/or frequently gags or chokes due to difficulty in swallowing; or the client must be fed by another person by stomach tube or by venous access.

(f) Essential shopping:

(i) Independent. The client can drive and is licensed or the client is capable of using public transportation.

(ii) Minimal. The client can use available transportation and does not need assistance with shopping, but needs instructions or physical assistance to get to or from transportation vehicle.

(iii) Substantial. The client is dependent on being accompanied or helped by others to access community shops and needs assistance with shopping.

(iv) Total. The client is totally dependent on others to do essential shopping.

(g) Housework:

(i) Independent. The client can perform essential housework.

(ii) Minimal. The client needs assistance or needs cuing or supervision in self-performance of essential housework one or two times per month in client use areas.

(iii) Substantial. The client needs weekly assistance of another with essential housework in client use areas.

(iv) Total. The client is dependent on others to do all housework in client use areas.

(h) Laundry:

(i) Independent. The client is capable of using available laundry facilities.

(ii) Minimal. The client is physically capable of using laundry facilities, but requires cuing and/or supervision.

(iii) Substantial. The client is not able to use laundry facilities without physical assistance.

(iv) Total. The client is dependent upon others to do all laundry.

(i) Meal preparation:

(i) Independent. The client can prepare and cook required meals.

(ii) Minimal. The client requires some instruction or physical assistance to prepare meals.

(iii) Substantial. The client can participate but needs substantial assistance to prepare meals.

(iv) Total. The client cannot prepare or participate in preparation of meals.

(j) Personal hygiene:

(i) Independent. The client can manage personal hygiene and grooming tasks on a regular basis.

(ii) Minimal. The client can manage their personal hygiene and grooming but must be reminded or supervised at least some of the time; the client regularly requires some limited assistance with both personal hygiene and grooming.

(iii) Substantial. The client regularly requires assistance with personal hygiene and grooming and cooperates in the process.

(iv) Total. The client is dependent on others to provide all personal hygiene and grooming.

(k) Positioning:

(i) Independent. The client can move to and from a lying position, position their body in bed, and get into and out of bed and chairs.

(ii) Minimal. The client can move to and from a lying position, turn from side to side, and position their body while in bed and chairs but requires assistance some of the time.

(iii) Substantial. The client needs occasional assistance to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(iv) Total. The client needs assistance most or all of the time to move to and from a lying position, turn from side to side, and position body while in bed and chairs.

(l) Self-medication:

(i) Independent. The client can take own medications or does not take medication.

(ii) Minimal. The client is physically able to take medications but requires another person to:

(A) Remind, monitor, or observe the taking of medications less than daily; or

(B) Open a container, lay out, or organize medications less than daily.

(iii) Substantial. The client can physically take medications, but requires another person to either remind, monitor, or observe the taking of medications daily; or the client can physically take medications if another person daily opens containers, lays out, organizes medications.

(iv) Total. The client cannot physically take medications and requires another person to assist and administer all medications.

(m) Toileting:

(i) Independent. The client can use the toilet without physical assistance or supervision; or the client can manage own closed drainage system if the system has a catheter or sheath; or the client uses and manages protective aids. The client may need grab bars or raised toilet seat.

(ii) Minimal. The client needs stand-by assistance for safety or encouragement. The client may need minimal physical assistance with parts of the task, such as clothing adjustment, washing hands, wiping, and cleansing. The client may need a protective garment and may or may not be aware of this need.

(iii) Substantial. The client cannot get to the toilet without assistance; or the client needs substantial physical assistance.

tance with part of the task; or the client needs someone else to manage care of a closed drainage system if it has a catheter or sheath. The client may or may not be aware of own needs.

(iv) Total. The client is physically unable to use toilet. Requires continual observation and total cleansing. The client may require protective garments or padding or linen changes. The client may or may not be aware of own needs.

(n) Transfer:

(i) Independent. The client can transfer without physical assistance.

(ii) Minimal. The client transfers without assistance most of the time, but needs assistance on occasion.

(iii) Substantial. The client can assist with own transfers, but frequently or most of the time needs assistance.

(iv) Total. The client transfers must be done by someone else.

(o) Travel to medical services:

(i) Independent. The client can drive and is licensed; or is capable of using available public transportation.

(ii) Minimal. The client cannot drive or can drive but should not; or public transportation is not available.

(iii) Substantial. The client requires physical assistance or supervision to both get into and out of a vehicle, but can use the transportation without assistance during the trip.

(iv) Total. The client is totally dependent on being accompanied or helped by others during the trip.

(p) Wood supply:

(i) Independent. The client does not rely on wood as the sole fuel source or is capable of splitting, stacking, or carrying wood for heating or cooking.

(ii) Minimal. The client can carry wood but needs occasional assistance with splitting or stacking wood.

(iii) Substantial. The client is not able to carry, split, or stack wood, but is able to use the wood supply once it is inside the residence.

(iv) Total. The client is dependent on another person to establish and maintain heat for cooking or residential heating.

(4) Scoring of functional abilities and supports.

(a) For each direct personal care service and household assistance task listed on the assessment form, the assessor shall determine:

(i) The client's ability to perform each activity;

(ii) Assistance available to the client through alternative resources, including families, friends, neighbors, community programs, and unpaid caregivers; and

(iii) Assistance needed from department programs after alternative resources have been taken into account.

(b) The assessor shall award points for each task based on the level of unmet need. The number of points allowable for each task are listed below under columns identified as 0 = none, M = minimal, S = substantial, and T = total:

TASK	0	M	S	T
Eating				
Breakfast	0	4	7	10
Light meal	0	4	7	10
Main meal	0	5	10	15

TASK	0	M	S	T
Toileting	0	5	10	15
Ambulation	0	4	7	10
Transfer	0	1	3	5
Positioning	0	1	3	5
Body care	0	5	10	15
Personal hygiene	0	1	3	5
Dressing	0	4	7	10
Bathing	0	4	7	10
Self-medication	0	2	4	6
Travel to medical services	0	1	2	3
Essential shopping	0	5	10	15
With client				
or				
For client	0	1	3	5
Meal preparation	0	4	7	10
Breakfast				
Light meal	0	4	7	10
Main meal	0	5	10	15
Laundry	0	1	2	3
Facilities in home				
or				
Facilities out of home	0	3	5	7
Housework	0	1	2	3
Wood supply		3	5	7

(c) The assessor shall add together the points awarded for each task to obtain the total score for the applicant or client.

(5) Hour computation. The assessor shall:

(a) Convert the total score into maximum hours per month which may be authorized using the scoring conversion chart.

Scoring Conversion Chart

MAXIMUM		MAXIMUM		MAXIMUM	
Score	Hours	Score	Hours	Score	Hours
1 - 4	5	60 - 64	44	120 - 124	83
5 - 9	8	65 - 69	47	125 - 129	87
10 - 14	11	70 - 74	51	130 - 134	90
15 - 19	14	75 - 79	54	135 - 139	93
20 - 24	18	80 - 84	57	140 - 144	97
25 - 29	21	85 - 89	60	145 - 149	100
30 - 34	24	90 - 94	64	150 - 154	103
35 - 39	28	95 - 99	67	155 - 159	106
40 - 44	31	100 - 104	70	160 - 164	110
45 - 49	34	105 - 109	74	165 - 169	113
50 - 54	37	110 - 114	77	170 and	
55 - 59	41	115 - 119	80	Above	116

EMERGENCY

(b) Recognize conversion hours show client need, and may not reflect department-paid hours as determined by program standards.

(6) The assessor shall determine the client's additional hours of supervision needed:

(a) Due to impaired judgment; and

(b) For standby assistance necessary for unscheduled tasks defined under WAC ((388-71-202)) 388-71-0202; and

(c) Recognize supervision hours show client need, and may not reflect department paid hours as determined by program standards.

(7) Department staff or the department's designee shall authorize services to correspond with the client's assessed need according to eligibility criteria for aging and adult services administration programs or the eligibility criteria for the division authorizing the service. The department or the department's designee shall notify the client of the right to contest a denial or reduction of services.

(8) Department staff or the department designee shall be responsible for representing the department at any hearing involving the assessment or decisions made relating to such assessment.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0405 What are the home and community programs? The HCP are in-home and community residential services funded by:

(1) Community options program entry system (COPEs), ((codified under subsection 1915(e) of the Social Security Act and 42 C.F.R. 441.300 and 310)) authorized under RCW 74.39A.030.

(2) Medicaid personal care services (MPC), ((found)) authorized under RCW 74.09.520 ((and in the Medicaid state plan)).

(3) Chore personal care services, a state-only funded program authorized under RCW ((74.08.090, 74.09.520, and 74.08.570)) 74.39A.110.

(4) Medically Needy Residential waiver, authorized under RCW 74.09.700 and 74.39A.041.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0410 What services may I receive under HCP? You may receive the following HCP services:

(1) For COPEs, MPC or chore: Assistance with personal care tasks and household tasks ((in your own home)), as defined in WAC ((388-71-202)) 388-71-0202; and

(2) For all HCP programs: Assistance with personal care tasks and household tasks in a residential setting, as described in WAC 388-71-0600. Note: Household tasks are included as part of the board and room rate. ((You may receive, under MPC:

(a) ~~Up to thirty hours of personal care services in an adult residential care facility; or~~

(b) ~~Up to sixty hours of personal care services in an adult family home).~~

(3) For COPEs, MPC: Personal care assistance when temporarily traveling out of state, as long as:

(a) Your provider is contracted with the state of Washington; and

(b) The travel plans are coordinated with your social service case manager prior to departure; and

(c) Services are authorized on your service plan prior to departure; and

(d) Services are strictly for your personal care, which does not include your provider's travel time, expenses, lodging or subsistence.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0415 What other services may I receive under the COPEs program? In addition to the services listed in WAC 388-71-0410, you may be eligible for other services under the COPEs ((program)) or Medically Needy Residential waiver as indicated in your assessment and documented in your plan of care. Under one of these programs you may be eligible to receive((=:)) the following services in your own home or in your residential setting. Note: The definition of own home as used throughout this section is defined in WAC 388-71-0202. The definition of residential settings is defined in WAC 388-71-0600.

(1) ((Adult day services, in an adult day care or adult day health center if you:

(a) ~~Are ineligible for Medicaid state plan covered adult day health services;~~

(b) ~~Are chronically ill or disabled, socially isolated and/or confused or have mild to moderate dementia; and~~

(c) ~~Meet eligibility requirements for adult day services as required in:~~

(i) ~~WAC 388-15-652, Eligibility for adult day care; or~~

(ii) ~~WAC 388-15-653, Eligibility for adult day health))~~

For COPEs in-home clients, adult day care if you meet the eligibility requirements under WAC 388-15-652 or its successor.

(2) Environmental modifications, if the minor physical adaptations to your home:

(a) Are necessary to ensure your health, welfare and safety;

(b) Enable you to function with greater independence in the home;

(c) Directly benefit you medically or remedially;

(d) Meet applicable state or local codes;

(e) Adaptions or improvements to the home, which are of general utility or add to the total square footage of the home are excluded.

(3) Home delivered meals provides nutritional balanced meals, limited to one meal per day, if:

(a) You are homebound and live in your own home;

(b) You are unable to prepare the meal;

(c) You don't have a caregiver (paid or unpaid) available to prepare this meal; and

(d) Receiving this meal is more cost-effective than having a paid caregiver.

(4) Home health aide service tasks in your own home, if the service tasks:

(a) Include assistance with ambulation, exercise, self-administered medications and hands on personal care;

(b) Are beyond the amount, duration or scope of Medicaid reimbursed home health services (WAC 388-551-2100) and are in addition to those available services; ~~(and)~~

(c) Are health-related. Note: Incidental services such as meal preparation may be performed in conjunction with a health-related task as long as it is not the sole purpose of the aide's visit; and

(d) Do not replace Medicare home health services.

(5) Personal emergency response system (PERS), if the service is necessary to enable you to secure help in the event of an emergency and if you:

(a) Live alone in your own home; or

(b) Are alone, in your own home, for significant parts of the day and have no regular provider for extended periods of time.

(6) Skilled nursing in your own home, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100.

(7) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

(a) Medically necessary under WAC 388-500-0005; and

~~(b))~~; or

~~(c))~~ (c) Necessary to increase your ability to perform activities of daily living; or

~~((e))~~ (d) Necessary for you to perceive, control, or communicate with the environment in which you live; and

~~((d))~~ (e) Directly medically or remedially beneficial to you; and

~~((e))~~ (f) In addition to and do not replace any medical equipment and/or supplies otherwise provided under ((the state plan)) Medicaid and/or Medicare.

(8) Training needs identified in the comprehensive assessment or in a professional evaluation, if you need to meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(9) Transportation services if you live in your own home, if the service:

(a) Provides ~~((the client))~~ you access to community services and resources provided in accordance with a therapeutic goal;

(b) Is not merely diversional in nature;

(c) Is in addition to ~~((Medicaid brokered transportation to medical services;))~~ and

~~((d))~~ does not replace the Medicaid-brokered transportation or transportation services available in the community.

(10) For COPES or Medically Needy Residential waiver clients, skilled nursing in a residential setting, if the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse; and

(b) Beyond the amount, duration or scope of Medicaid-reimbursed home health services as provided under WAC 388-551-2100; and

(c) In addition to and does not replace the services required by DSHS contract in residential settings.

(11) Specialized durable and nondurable medical equipment and supplies under WAC 388-543-1000, if the items are:

(a) Medically necessary under WAC 388-500-0005; and

(b) Necessary for life support; or

(c) Necessary to increase your ability to perform activities of daily living; or

(d) Necessary for you to perceive, control, or communicate with the environment in which you live; and

(e) Directly medically or remedially beneficial to you; and

(f) In addition to and do not replace any medical equipment and/or supplies otherwise provided under Medicaid and/or Medicare; and

(g) In addition to and do not replace the services required by DSHS contract in residential settings.

(12) Training needs identified in the comprehensive assessment or in a professional evaluation, if you need to meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers; and

(d) The service is in addition to and does not replace the services required by DSHS contract in residential settings.

(13) Transportation services if you live in a residential setting, if the service:

(a) Provides you access to community services and resources provided in accordance with a therapeutic goal;

(b) Is not merely diversional in nature;

(c) Is in addition to and does not replace the Medicaid-brokered transportation or transportation services available in the community; and

(d) Does not replace the services required by DSHS contract in residential settings.

Note: Clients who reside in enhanced residential care, assisted living or adult family homes are not eligible for waiver funded adult day care.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0420 What services are not covered under HCP? HCP does not cover the following services:

(1) For chore personal care and MPC:

(a) Teaching, including teaching how to perform personal care tasks;

(b) Development of social, behavioral, recreational, communication, or other types of community living skills;

(c) Nursing care.

(2) Personal care services provided outside of your residence, unless ((they)) the services are authorized in your written service plan.

(3) Child care;

- (4) Sterile procedures, administration of medications, or other tasks requiring a licensed health professional, unless authorized as an approved nursing delegation task, client self-directed care task, or provided by a family member;
- (5) Services provided over the telephone;
- (6) Services provided outside the state of Washington if ~~((COPES or))~~ chore personal care;
- (7) Services to assist other household members not eligible for services;
- (8) Yard care.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0425 Who can provide HCP services?

The following types of providers may provide COPES, MPC, or chore services:

- (1) ~~((Individual))~~ For in-home clients, individual providers, who must meet the requirements outlined in WAC 388-71-0500 through 388-71-0580;
- (2) For in-home clients, home care agencies, which must be licensed under chapters 70.127 RCW and 246-336 WAC, or home health agencies, licensed under chapters 70.127 RCW and 246-327 WAC;
- (3) For residential clients, licensed adult family home and boarding home providers who are contracted with DSHS (see WAC 388-71-0600); and
- (4) As applicable, service providers who have contracted with the AAA to perform other waiver services under COPES or Medically Needy Residential waiver services listed in WAC 388-71-0415.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0430 Am I eligible for one of the HCP programs? You are eligible to receive HCP services if you meet the functional and financial eligibility requirements in WAC 388-71-0435 for COPES, WAC 388-71-0442 for Medically Needy Residential waiver, WAC 388-71-0440 for MPC, or WAC 388-71-0445 for Chore. Functional eligibility for all ~~((three))~~ four programs is determined through an assessment as provided under WAC ~~((388-71-203))~~ 388-71-0203. Your eligibility begins upon the date of the department's service authorization.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0435 Am I eligible for COPES-funded services? You are eligible for COPES-funded services if you meet all of the following criteria. The department or its designee must assess your needs and determine that:

- (1) You are age:
- (a) Eighteen or older and blind or disabled, as defined in WAC 388-511-1105; or
- (b) Sixty-five or older.
- (2) You meet financial eligibility requirements ~~((This means the department will assess your finances and determine if your income and resources fall within the limits set in~~

~~WAC 388-515-1505, Community options program entry system (COPES))~~ as defined in WAC 388-515-1505.

(3) You:

(a) Are not eligible for Medicaid personal care services; or

(b) Are eligible for Medicaid personal care services, but the department determines that the amount, duration, or scope of your needs is beyond what Medicaid personal care can provide.

(4) Your comprehensive assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless ~~((COPES))~~ waiver services are provided) which means one of the following applies. You:

(a) Require care provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis;

(b) Have an unmet need requiring substantial or total assistance with at least two or more of the following activities of daily living (ADLS) as defined in WAC ~~((388-71-202 and 388-71-203))~~ 388-71-0202 and 388-71-0203:

- (i) Eating,
- (ii) Toileting,
- (iii) Ambulation,
- (iv) Transfer,
- (v) Positioning,
- (vi) Bathing, and
- (vii) Self-medication.

(c) Have an unmet need requiring minimal, substantial or total assistance in three or more of the ADLS listed in subsection (4)(b)(i) through (vii) of this section; or

(d) Have:

(i) A cognitive impairment and require supervision due to one or more of the following: disorientation, memory impairment, impaired judgment, or wandering; and

(ii) An unmet need requiring substantial or total assistance with one or more of the ADLS listed in subsection (4)(b)(i) through (vii) of this section.

(5) You have a completed service plan, per WAC ~~((388-71-205))~~ 388-71-0205.

NEW SECTION

WAC 388-71-0442 Am I eligible for Medically Needy Residential waiver services? You are eligible for Medically Needy Residential waiver services if you will be receiving services in a residential setting and meet all of the following criteria. The department or its designee must assess your needs and determine that:

(1) You are age:

(a) Eighteen or older and blind or disabled, as defined in WAC 388-511-1105; or

(b) Sixty-five or older.

(2) You meet the financial eligibility requirements defined in WAC 388-515-1540.

(3) You are not eligible for Medicaid personal care services or COPES.

(4) You meet the functional criteria for nursing facility level of care as defined in WAC 388-71-0435(4).

(5) You have a completed service plan, per WAC 388-71-0205.

(6) Note: Depending on the number of available spaces, you may be placed on a waiting list.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0445 Am I eligible for Chore-funded services? To be eligible for Chore-funded services, you must:

- (1) Be eighteen years of age or older;
- (2) Require assistance with at least one of the direct personal care tasks listed in WAC ((388-71-202)) 388-71-0202;
- (3) Not be eligible for MPC or COPEs, Medically Needy Residential waiver, Medicare home health or other programs if these programs can meet your needs;
- (4) Have net household income (as described in WAC 388-450-0005, 388-450-0020, 388-450-0040, and 388-511-1130) not exceeding:
 - (a) The sum of the cost of your chore services, and
 - (b) One-hundred percent of the FPL adjusted for family size.
- (5) Have resources, as described in chapter 388-470 WAC, which does not exceed ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. (Note: One thousand dollars for each additional family member may be added to these limits.)
- (6) Not transfer assets on or after November 1, 1995 for less than fair market value as described in WAC 388-513-1365.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0465 Are there waiting lists for HCP services? ((If you are receiving)) For:

- (1) COPEs services, a waiting list may be created if:
 - (a) The caseload or expenditures exceed the legislative funding, or
 - (b) ((HCFA)) The federal Centers for Medicare and Medicaid Services (CMS) or the legislature imposes caseload limits.
- (2) ~~((Chore services, a waiting list may be created to maintain the monthly expenditures within the legislative appropriation. You receive priority if you:~~
 - (a) ~~Have received chore as of June 30, 1995; or~~
 - (b) ~~Need chore:~~
 - (i) ~~To return to the community from a nursing home,~~
 - (ii) ~~To prevent unnecessary nursing home placement, or~~
 - (iii) ~~For protection based on referral from an APS investigation.~~
- (3)) MPC, there is no waiting list. Note: Instead of waiting lists, the department may be required to revise HCP rules to reduce caseload size, hours, rates, or payments in order to stay within the legislative appropriation.
- (3) For Medically Needy Residential waiver, the department will create a waiting list in accordance with caseload limits determined by legislative funding. Wait listed clients will be ranked in the following manner:

(a) Nursing home residents wanting MN waiver services will be ranked first on the wait list by date of application for services; and

(b) After nursing home residents are ranked, clients living in the community with a higher level of need as determined by the comprehensive assessment will be ranked higher on the wait list over clients with lower level of need; and

(c) As between two or more clients in the community with equal need levels, clients with earlier applications for services will have priority over later applications for services.

AMENDATORY SECTION (Amending WSR 00-18-099, filed 9/5/00, effective 10/6/00)

WAC 388-71-0470 Who pays for HCP services? Depending on your income and resources, you may be required to pay participation toward the cost of your care. The department determines exactly what amount, if any, you pay. If you are receiving:

- (1) COPEs in-home or residential,
 - (a) You participate income per rules in WAC 388-515-1505;
 - (b) If you have nonexempt income that exceeds the cost of COPEs services, you may retain the difference.
- (2) MPC in-home services, you do not participate toward the cost of your personal care services.
- (3) MPC services in a residential setting and you are:
 - (a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of at least thirty-eight dollars and eighty-four cents per month.
 - (b) An SSI beneficiary who receives SSI and SSA benefits, you only pay for board and room. You are allowed to keep a personal needs allowance of at least fifty-eight dollars and eighty-four cents per month.
 - (c) An SSI-related person per WAC 388-511-1105, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate (~~(plus add-on hours)~~). You will receive a personal allowance of fifty-eight dollars and eighty-four cents.
 - (d) A GA-X client in a residential care facility, you are allowed to keep a personal allowance of thirty-eight dollars and eighty-four cents only per month. The remainder of your grant must be paid to the facility.
- (4) Medically Needy Residential waiver services, the amount you pay is determined in WAC 388-515-1540.
- (5) Chore services, you may retain an amount equal to one hundred percent of the federal poverty level, adjusted for family size, as the home maintenance allowance and pay the difference between the FPL and your **nonexempt** income. Exempt income includes:
 - (a) Income listed in WAC 388-513-1340;
 - (b) Spousal income allocated and actually paid as participation in the cost of the spouse's community options program entry system (COPEs) services;
 - (c) Amounts paid for medical expenses not subject to third party payment;

(d) Health insurance premiums, coinsurance or deductible charges; and

(e) If applicable, those work expense deductions listed as WAC 388-71-480(2).

AMENDATORY SECTION (Amending WSR 00-18-099, filed 9/5/00, effective 10/6/00)

WAC 388-71-0480 If I am employed, can I still receive HCP services? If you are disabled, as determined under WAC 388-511-1105, you may be employed and still be eligible to receive HCP services.

(1) If you remain Medicaid eligible under the categorically needy program, you are financially eligible for MPC services.

(2) If you are receiving Medically Needy Residential waiver services in a residential setting, you may have earned income allowances per WAC 388-515-1540.

(3) If you are not Medicaid eligible due to your earned income and resources, ~~((you may be eligible to receive))~~ and are receiving chore personal care services.

(a) You may be required to pay participation per WAC 388-71-0470(4) for any earned income above one hundred percent of the federal poverty level.

(b) The department will exempt fifty percent of your earned income after work expense deductions. Work expense deductions are:

(i) Personal work expenses in the form of self-employment taxes (FICA); and income taxes when paid;

(ii) Payroll deductions required by law or as a condition of employment in the amounts actually withheld;

(iii) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars;

(iv) Expenses necessary for continued employment such as tools, materials, union dues, transportation to service customers is not furnished by the employer; and

(v) Uniforms needed on the job and not suitable for wear away from the job.

AMENDATORY SECTION (Amending WSR 02-21-098, filed 10/21/02, effective 11/21/02)

WAC 388-71-0600 What are residential services? The residential service program provides personal care services, as defined in WAC ~~((388-71-202))~~ 388-71-0202, room, board, supervision, and nursing services for elderly and disabled adults. Eligible individuals may choose to receive services from any of the following licensed and contracted residential settings:

(1) **Adult family homes** with a state contract provide services for two to six unrelated adults (chapter 388-76 WAC). Services include room, board and supervision. Residents may also receive limited nursing services, under nurse delegation or if the sponsor or the manager is a nurse. Services are authorized according to the department's comprehensive assessment and service plan.

(2) **Assisted living** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I

and II). Structural requirements include two hundred twenty square foot private room, private bathroom, and a kitchen in each unit. Resident services may include room, board, assistance with ADL and IADL, and limited nursing services. Services are authorized according to the department's comprehensive assessment and service plan.

(3) **Enhanced adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and III). Services may include a shared room, board, limited nursing services, assistance with ADL and IADL, limited nursing services, and supervision. Services are authorized according to the department's comprehensive assessment and service plan.

(4) **Adult residential care** provides services in a licensed boarding home with a state contract (chapter 388-110 WAC, part I and IV). This service is not available under the COPES or MN waiver program. Services ~~((may))~~ include room, board and supervision. Services are authorized according to the department's comprehensive assessment and service plan.

AMENDATORY SECTION (Amending WSR 01-14-055, filed 6/29/01, effective 7/30/01)

WAC 388-71-0605 Am I eligible for residential services? (1) If you apply for services, you may be eligible to have the department pay for your services through one of the programs listed below. The department assesses and determines your functional and financial eligibility for residential services under one of the following long-term care programs:

(a) Community options program entry system (COPES), described in WAC 388-71-0435; ~~((or))~~

(b) Medicaid personal care funding (MPC), described in WAC 388-71-0440; or

(c) Medically Needy Residential waiver described in WAC 388-71-0442.

(2) If you are not eligible for services under one of the programs listed above, you may receive state-only funding for residential services if you meet eligibility requirements for general assistance unemployable (GAU), described in WAC ~~((388-235-5000))~~ 388-400-0025.

(3) If you are on:

(a) MPC, you can receive services in adult family homes and adult residential care facilities.

Note: If you are under eighteen, you may receive MPC services in a children's foster family home or a children's group care facility.

(b) COPES/Medically Needy Residential waiver, you can receive services in adult family homes, enhanced adult residential care facilities, and assisted living facilities.

(c) GAU, you can receive state-funded services in adult family homes and adult residential care facilities.

AMENDATORY SECTION (Amending WSR 00-04-056, filed 1/28/00, effective 2/28/00)

WAC 388-71-0610 Who pays for residential care? You must use your income to pay for your room and board and services. You are allowed to keep some of your income

for ~~((clothing and))~~ personal ~~((incidental (CPI)))~~ needs allowance (PNA). The department determines the amount of ~~((CPI))~~ PNA that you may keep. Rules regarding the amount you must pay or CPI are found in WAC 388-513-1380; 388-515-1505 for COPES; 388-515-1540 for Medically Needy Residential waiver, or 388-478-0045 for all other programs.

(1) The department pays the facility for the difference between what you pay and the department-set rate for the facility. AASA published rates and program rules establish your total hours and how much the department pays toward the cost of your services.

(2) Washington state collects from your estate the cost of the care that the department provides based on chapter 388-527 WAC.

WSR 03-14-012

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed June 18, 2003, 3:58 p.m.]

Date of Adoption: June 13, 2003.

Purpose: The purpose of this emergency filing [is] to amend sections of chapter 388-148 WAC, Licensing requirements for child foster homes, group care programs/facilities, and agencies, which impact the receipt of federal funding for eligible children in care with Children's Administration. This notice and the full text of these emergency rules are available from the DSHS rule-making website at <http://www1.dshs.wa.gov/msa/rpau/docket.html>, or by contacting Jean Croisant, DSHS Children's Administration, phone (360) 725-2486, or by e-mail at biggire@dshs.wa.gov.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-148-0035 What personal characteristics do I need to provide care to children?, 388-148-0040 What first aid and cardiopulmonary resuscitation (CPA) training is required?, 388-148-0045 What HIV/AIDS training is required?, 388-148-0050 How do I apply for a license?, 388-148-0060 When am I not allowed to received a license from a child-placing agency?, 388-148-0065 When may I be certified to provide care to children?, 388-148-0095 When are licenses denied, suspended or revoked?, 388-148-0120 What incidents involving children must I report?, 388-148-0125 What are your requirements for keeping client records?, 388-148-0140 What personnel policies must I have?, 388-148-0170 What steps must I take to ensure children's safety around bodies of water?, 388-148-0220 What fire safety requirements must I follow to qualify for a license?, 388-148-0260 What are the general requirements for bedrooms?, 388-148-0270 What are the requirements for beds?, 388-148-0335 When must I get medical exams for the children under my care?, 388-148-0345 What must I do to prevent the spread of infections and communicable diseases?, 388-148-0350 How do I manage medications for children under my care?, 388-148-0395 What requirements must I meet for feeding babies?, 388-148-0460 What requirements do you have for supervising children?, 388-148-0520 What are the

training requirements for foster parents and prospective foster parents?, 388-148-0560 Do I need a treatment plan for children under my care?, 388-148-0585 What social service staff do I need?, 388-148-0630 What fire prevention measures must I take?, 388-148-0700 What are the qualifications for an executive director for a group care program or child-placing agency?, 388-148-0720 What qualifications must the child care staff for a group care program and a child-placing agency have?, 388-148-0725 What is the ratio of child care staff to children in group care facilities?, 388-148-0785 What is the proper ratio of staff to children in home or group care facilities offering maternity services?, 388-148-0800 What levels of secure CRCs exist?, 388-148-0915 What steps must be taken after a youth is admitted into a CRC?, 388-148-0995 What are the ratio requirements of youth care staff to youth in crisis residential centers?, 388-148-1060 What services may a child-placing agency provide?, 388-148-1070 What health histories need to be provided to adoptive parents?, 388-148-1115 Do you have requirements for adoptive services? and 388-148-1120 What is the process for adoptions?; and new WAC 388-148-0058 May I have a license for both child day care and child foster care?, 388-148-0427 Are there specific requirements regarding Native American children?, 388-148-0462 Who may provide care to a foster child in the foster home when the foster parent is away from the home?, 388-148-0542 May a foster child be supervised by someone under eighteen in the foster home?, 388-148-0722 What are the qualifications for health care staff for a group care program or a child-placing agency?, 388-148-0892 What are the requirements for a level three secure CRC?, 388-148-1076 What are the qualifications for an executive director of a child-placing agency?, 388-148-1077 What are the qualifications for a case aide for a child-placing agency program?, 388-148-1078 What are the qualifications for health care staff hired or contracted by a child-placing agency to provide services to children in care?, 388-148-1079 What are the qualifications for consultants for child-placing agency programs?, 388-148-1140 May a licensed child-placing agency provide emergency respite services?, 388-148-1145 Does an agency or individual need to be licensed as a child-placing agency to provide emergency respite services that are not center-based?, 388-148-1150 Does a child-placing agency providing emergency respite services need specific program staff?, 388-148-1155 What are the education and training requirements for a program manager for an emergency respite program at a child-placing agency?, 388-148-1160 What services do child-placing agencies provide if they offer an emergency respite program?, 388-148-1165 Does a child-placing agency need approval from the division of licensed resources to provide emergency respite services?, 388-148-1170 What age children may receive emergency respite services?, 388-148-1175 Who may place a child for emergency respite?, 388-148-1180 Must all children accepted for emergency respite care have current immunizations?, 388-148-1185 What are the record-keeping requirements for a child-placing agency providing emergency respite services?, and 388-148-1190 What written information is need before a child is accepted for emergency respite care by a child-placing agency?

Statutory Authority for Adoption: Chapter 74.15 RCW.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Children's Administration has found that some of the sections of chapter 388-148 WAC require waivers in order for provider compliance. The approval of waivers then jeopardizes federal funds received by Children's Administration to support services to children and their families.

These rules replace emergency rules adopted as WSR 03-05-099 on February 19, 2003. Children's Administration has filed a preproposal statement of inquiry (WSR 02-06-083) and is engaged in working with stakeholders for the permanent adoption of rule changes. Stakeholders recently reviewed the draft rules, and the department is preparing economic analyses related to the possible impact of the rules. The tentative date for the filing of the proposed rules for public comment is mid-September 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 21, Amended 36, 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 21, Amended 36, Repealed 0.

Effective Date of Rule: Immediately.

June 13, 2003

Brian H. Lindgren, 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 03-15 issue of the Register.

WSR 03-14-026

EMERGENCY RULES

DEPARTMENT OF TRANSPORTATION

[Filed June 20, 2003, 11:56 a.m., effective July 1, 2003]

Date of Adoption: June 17, 2003.

Purpose: To amend rules to provide after-hour approval for tow truck operations involved in the emergency clearance of disabled vehicles on state highways, including ramps and shoulders.

Citation of Existing Rules Affected by this Order: Amending WAC 468-38-265 Emergency operation of tow trucks.

Statutory Authority for Adoption: RCW 46.44.090.

Other Authority: RCW 46.44.170.

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: Effective July 1, 2003, the state patrol will stop issuing emergency permits. To accommodate the change legislation was introduced into the 2003 session to provide relief to the tow truck industry. The proposed legislation did not make it through the process in the allotted time. To effect an interim solution the WAC rule has been amended to use the Washington State Department Transportation (WSDOT) Transportation Management Centers to review requests for emergent moves and provide approval when deemed safe. The rule change was worked with the state patrol, the Tow Truck Association and the WSDOT.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2003.

June 17, 2003

John F. Conrad
Assistant Secretary
Engineering and Regional Operations

AMENDATORY SECTION (Amending WSR 95-24-074, filed 12/4/95, effective 1/4/96)

WAC 468-38-265 Emergency operation of tow trucks. The permitting of overweight tow trucks that respond to emergencies shall be governed by the following procedures:

(1) ~~(Emergency situations are limited to those instances in which a vehicle is disabled on the public streets or highways)~~ An emergent tow is defined as the movement of a disabled vehicle(s) from any public roadway, including ramps and shoulder, and due to the necessity for an immediate response (referred to as the "initial tow truck service" in RCW 46.44.015), the appropriate overweight permit cannot be determined until the operator arrives at the disabled vehicle.

(2) When a tow truck operator/dispatcher has been called to respond to an emergent situation, the operator/dispatcher will telephone the ~~((Ridgefield Port of Entry))~~ nearest traffic

EMERGENCY

management center (TMC) and ((request a permit)) be logged in to clear the obstacle. The ((commercial vehicle enforcement officer)) TMC employee on duty shall consult the map "Washington State Highways Tow Truck Restrictions: For Emergency Use Only (as last revised)." Bridges that may be crossed by tandem axle loadings estimated by the tow truck operator may be approved for the emergency move.

(3) ((In requesting the permit)) To log in with the TMC, the tow truck operator/dispatcher shall ((state)) provide the following: Name of company, name of individual making request, telephone number, tow vehicle license, excess weight needed, ((list)) the origin and destination, the state route numbers ((required)) to be used during the tow and ((an estimate of miles to be traveled. The operator will advise the officer of his credit card number to which the permit fee can be charged and be issued)) description of vehicle being towed. The TMC employee on duty, after verifying the requested route with the map, will issue an identification or clearance number for the ((trip being permitted)) tow. This approval is for state routes only and gives no authorization for movement on county roads or city streets.

(4) If the map showing tow truck restrictions does not indicate that the routes can safely tolerate the weight being requested, the tow truck operator is limited to moving the vehicle off the road to the nearest place of safety. When the weight is too heavy to be moved on some bridges or highways, a request during regular working hours for a permit and a bridge analysis will be required before the load may be transported.

(5) The tow truck operator/dispatcher shall apply for and acquire the appropriate permit on the next business day from the department's motor carrier services office.

(6) Permits for routine movements other than emergency tow truck moves shall be requested through available DOT permits offices, agents or facsimile services.

WSR 03-14-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-136—Filed June 20, 2003, 4:35 p.m.]

Date of Adoption: June 20, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900K; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is intended to keep the recreational harvest of sturgeon downstream of the Wauna power lines within the established harvest guidelines. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 20, 2003

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 232-28-61900N Exceptions to statewide rules—Columbia River (sturgeon). Notwithstanding the provisions of WAC 232-28-619:

(1) Effective immediately through June 30, 2003, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam downstream to the Wauna power lines.

(2) Effective 12:01 a.m. June 21, 2003, until further notice it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from The Dalles Dam to John Day Dam.

(3) Effective 12:01 a.m. June 28, 2003 through September 30, 2003, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from the mouth upstream to the Wauna power lines.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900K	Exceptions to statewide rules—Columbia River (sturgeon). (03-124)
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WSR 03-14-031
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-135—Filed June 23, 2003, 11:49 a.m., effective July 7, 2003, 6:00 a.m.]

Date of Adoption: June 23, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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 7, 2003, 6:00 a.m.

June 23, 2003

J. P. Koenings

Director

NEW SECTION

WAC 220-52-07100A Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Effective 6:00 a.m. July 7, 2003 until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1, 2, 3, 4 and 5 on Monday, Tuesday and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day.

(2) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on July 5, 6, 12, 13, 19, 20, 2003.

**WSR 03-14-048
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-138—Filed June 24, 2003, 3:40 p.m.]

Date of Adoption: June 24, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-05100T; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to meet allocation, conservation and management agreements. Openings and closures are consistent with these elements. Commercial shrimp quotas have been taken in the areas closed by this rule. A weekly landing limit for spot shrimp is necessary to reduce risk of overharvest, maintain an orderly fishery, provide the ability to enforce state/tribal plan requirements, and to ensure conservation. 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.

June 24, 2003

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-52-05100U Puget Sound shrimp pot and beam trawl fishery—Seasons. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) All waters of Marine Fish-Shellfish Management and Catch and Reporting Areas 23A-S (south), 23C, 23D, and 29,

are open to harvest of all shrimp species until further notice, except as provided below:

(i) Effective immediately, until further notice, it is unlawful to harvest spot shrimp for commercial purposes in Marine Fish-Shellfish Catch and Reporting Areas 23A-S (south) and 23D.

(b) Effective immediately, until further notice, all waters of Shrimp Management Areas 1A and 1C, and Crustacean Management Regions 2, 4 and 6, and Marine Fish-Shellfish Catch and Reporting Areas 23AE (east), 23B and 25A are open to the harvest of all shrimp species, except as provided below:

(i) All waters of Shrimp Management Area 2E are closed to the harvest of all shrimp species other than spot shrimp.

(ii) All waters of Marine Fish-Shellfish Catch and Reporting Areas 26B-1 and 26C are closed to the harvest of all shrimp species.

(c) Effective immediately, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Crustacean Management Regions 1C, 2, 4 and 6, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Areas 23C or 29 (or any combination of these two areas), shall not be subject to the weekly spot shrimp trip limit for that week. The spot shrimp trip limit accounting week is Monday through Sunday. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

(d) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being moved to.

(e) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(d) above.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts: Open immediately, until further notice.

(b) Shrimp Management Area 1B: Marine Fish Shellfish Catch and Reporting Area 22A open immediately, until further notice.

(3) It is unlawful to set or pull shrimp using shellfish pot or shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(4) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100T Puget Sound shrimp pot and beam trawl fishery—Seasons. (03-131)

WSR 03-14-049 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 03-137—Filed June 24, 2003, 4:48 p.m., effective June 26, 2003, 12:01 a.m.]

Date of Adoption: June 23, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-24-04000J; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A harvestable surplus of salmon is available for the troll fleet. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: June 26, 2003, 12:01 a.m.

June 23, 2003

J. P. Koenings

Director

NEW SECTION

WAC 220-24-04000J All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective immediately until further notice it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3 and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open June 26 through June 30, 2003. Landing and possession limit of 50 chinook per vessel for the entire five day period. It is unlawful to possess coho. The Cape Flattery and Columbia River Control Zones are closed.

(2) Minimum size for chinook salmon is 28 inches in length. No minimum size for pink, sockeye or chum salmon.

(3) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(4) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and must land within the Salmon Management and Catch Reporting Areas 1, 2, 3 or 4, or in Garibaldi, Oregon.

(5) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. EEZ: and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude and west of 125°05'00" W longitude.

(6) Columbia Control Zone - An area at the Columbia River mouth, bounded on the west by a line running north-east/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" West. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(7) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon, and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(8) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279 or faxing the information to (360) 902-2949 or E-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch

area, the species. The total number for each species and the total weight for each species including halibut.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 1, 2003:

WAC 220-24-04000J All-citizen commercial salmon troll.

WSR 03-14-050**EMERGENCY RULES****DEPARTMENT OF TRANSPORTATION**

[Filed June 25, 2003, 10:44 a.m.]

Date of Adoption: June 23, 2003.

Purpose: To add an approved vehicle type to those approved for traveling high occupancy lanes.

Citation of Existing Rules Affected by this Order: Amending WAC 468-510-010.

Statutory Authority for Adoption: RCW 46.61.165 and 47.52.025.

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: About five years ago, WAC 468-510-010 was adopted to prescribe by rule the types of vehicles authorized to use high occupancy vehicle lanes. The Department of Transportation recently determined that the use of such lanes by law enforcement vehicles significantly enhances enforcement, emergency response, and incident management activities. Thus, an emergency rule is necessary so that these vehicles may immediately use high occupancy vehicle lanes when performing these activities.

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.

EMERGENCY

Effective Date of Rule: Immediately.

June 23, 2003

John F. Conrad
Assistant Secretary

AMENDATORY SECTION (Amending Order 178, filed 6/1/98, effective 7/2/98)

WAC 468-510-010 High occupancy vehicles (HOVs).

Pursuant to RCW 46.61.165 and 47.52.025, the department has reserved portions of interstate highways, state highways, and ramps, as HOV lanes for the exclusive use of public transportation vehicles or private motor vehicles with the number of occupants specified on signs. Motor vehicles authorized to use HOV lanes are:

(1) Rubber tired municipal transit vehicles conforming to RCW 46.04.355.

(2) Buses with a carrying capacity of sixteen or more persons, including the operator.

(3) Motorcycles conforming to RCW 46.04.330.

(4) Recreational vehicles with the number of occupants specified on signs.

(5) Official marked law enforcement vehicles equipped with emergency lights and siren, issued by a state, local or county law enforcement agency and operated by an on-duty state patrol, local, or county law enforcement personnel.

(6) All other vehicles with the number of occupants specified on signs, except that trucks in excess of 10,000 lb. G.V.W. are prohibited from the use of HOV lanes regardless of the number of occupants. Tow trucks that would be otherwise prohibited because of weight or number of occupants may use HOV lanes when en route to an emergency on a specific roadway or roadside.

WSR 03-14-051

EMERGENCY RULES

DEPARTMENT OF TRANSPORTATION

[Filed June 25, 2003, 10:45 a.m.]

Date of Adoption: June 23, 2003.

Purpose: To amend chapter 468-70 WAC, so that rules conflicting with 2002 legislative activity are correct.

Citation of Existing Rules Affected by this Order: Repealing WAC 468-70-080 Fee schedule; and amending WAC 468-70-070.

Statutory Authority for Adoption: RCW 47.36.325 and the 2002 supplemental appropriation bill.

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: 2002 legislation directed the department to select a private contractor to run the motorist information sign program and allows the private contractor to set motorist information fees. Legislation also removed funding for the department to administer the program. The

procedures and fees contained in WAC 468-70-070 and 468-70-080 conflict with the new legislation.

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 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 23, 2003

John F. Conrad
Assistant Secretary

AMENDATORY SECTION (Amending Order 196, filed 12/22/99, effective 1/22/00)

WAC 468-70-070 Permits and procedure. (1) No business signs will be installed on motorist information sign panels prior to issuance of a permit by the department. Permits will be issued by the department in accordance with this chapter.

(2) Permit applications will be accepted at the appropriate department of transportation regional office in care of the regional administrator. Applications transmitted by mail shall be effective from date of receipt rather than of mailing.

(3) One permit application will be for all the signing that the applicant will qualify for at a single interchange or intersection.

(4) Application forms, which may be obtained from the department, shall contain the following information:

(a) Name and address of the owner of the business to be advertised.

(b) The highway for which the applicant seeks signing.

(c) A description of the interchange or intersection for which the business sign is to be installed.

(d) A statement of the business location including exact travel distance from the interchange or intersection and precise roads used for access.

(e) An agreement to limit the height of any on-premise sign to no greater than fifteen feet higher than the roof of the main building, measured to the bottom of the sign for businesses located within one mile of an interchange or intersection. (Not applicable along interstate highways if the sign is not visible to the highway.)

Pursuant to RCW 47.36.310, for on-premise signs visible along rural interstate highways the department may waive the fifteen-foot height requirement, on a case-by-case basis, where granting the waiver will not preclude another business

having an on-premise sign which complies with the fifteen-foot height requirement from receiving business signs.

(f) Such other information as may be required by the department.

(5) Each permit application will include a sketch, drawing or picture of the message to be placed on the business signs. Business signs may not display messages advertising products or services incidental to the qualifying motorist service activity. The department shall have final approval of the design of the business sign and may modify such submissions to achieve uniformity.

~~(6) ((A nonrefundable application processing fee as prescribed in WAC 468-70-080 (1)(a) will accompany each application. Such fee may only be refunded if, after approval, the activity is not signed for reasons caused by the department.~~

~~(7)) Any party aggrieved by an application determination of the department shall be accorded hearing rights before the secretary of transportation or his designee pursuant to chapter 34.05 RCW.~~

~~((8)) (7) Fabrication and installation of business signs:~~

~~(a) Once an application is approved, the department will request the business to provide the signs for installation. Such signs shall be built to the department's specifications prescribed by WAC 468-70-060. Prior to installation the business shall ((be billed and pay for the installation cost prescribed in WAC 468-70-080 (1)(b))) agree to reimburse the department for the actual installation costs.~~

~~(b) ((When requested by a business, the department will manufacture business signs composed of standard solid color background with standard die cut or silk screened highway sign letters used for messages. The department does not manufacture business signs having nonstandard colors, nonstandard letters, or pictorial business symbols or trademarks. The manufacturing and installation fees for business signs manufactured by the department are prescribed in WAC 468-70-080 (2)(a) or (b), and shall be prepaid prior to manufacture and installation.)) The reimbursable business sign installation fees referenced in (a) of this subsection may vary from sign site to sign site.~~

~~((9)) (8) Business sign and motorist information sign panel maintenance and replacement:~~

~~(a) ((For a business which provides its own business signs to the department, an annual permit fee of fifty dollars shall be charged. (Effective January 1, 2001, this annual permit fee will no longer be charged by the department.)) Maintenance replacement business signs shall be provided by the business, when requested by the department to replace weather worn business signs. The department will install the replacement business sign after ((prepayment for the installation fees as prescribed in WAC 468-70-080 (1)(b))) the business agrees to reimburse the department for the actual installation costs as described in subsection (7) of this section.~~

~~(b) ((For business signs manufactured by the department, the department will notify businesses when business signs need replacement because of weather wear and will manufacture and install such replacement business signs after prepayment for the manufacturing and installation fees prescribed in WAC 468-70-080 (2)(a) or (b).~~

~~(e)) The annual maintenance replacement fee charged to each business for motorist information sign back panels is ((prescribed in WAC 468-70-080(3))) one hundred dollars for businesses signed at interchanges and thirty-five dollars for businesses signed at intersections.~~

~~((4)) (c) Annual maintenance fees shall be paid within thirty calendar days after the anniversary of the permit issue. These fees will not be prorated for fractions of the year in the event of business sign removal or coverage. Failure to pay the annual maintenance fees within thirty calendar days after the anniversary of the permit issue will cause the permit to expire and the business signs to be removed from the motorist information sign panels.~~

~~((10)) (9) In the event of change of ownership or operation, assignment of permits in good standing shall be effective only upon receipt of assignment by the department. The department will not reassign permits in the event of change of both ownership and operation.~~

~~((11)) (10) Revocation and expiration:~~

~~(a) After hearing before the secretary of transportation or his designee, as required by chapter 34.05 RCW (Administrative Procedure Act) and the rules and regulations of the department adopted pursuant thereto, any permit may be revoked by the secretary or the secretary's designee who has conducted the hearing for any of the following reasons:~~

~~(i) For the making of any false or misleading statements in the application for any permit, whether or not the same is material to or relied upon by the department in the issuance of such permit when such false or misleading statement or information shall remain uncorrected after the expiration of thirty days following written notification thereof.~~

~~(ii) For allowing or suffering any on-premise sign to remain that exceeds the height requirements set forth in this chapter.~~

~~(iii) For failure to provide the services and/or facilities required by WAC 468-70-050 and this section.~~

~~(b) If a permit is revoked or is allowed to expire, a new application may be accepted by the department and the motorist service activity must meet the requirements of any other applying motorist service activity.~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 468-70-080 Fee schedule.

WSR 03-14-060
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)
 [Filed June 25, 2003, 4:26 p.m., effective July 1, 2003]

Date of Adoption: June 23, 2003.

Purpose: To initiate six-month eligibility reviews for DSHS/MAA clients of family and children's medical pro-

grams; and to eliminate continuous eligibility for children. The FY 2003 supplemental budget (SSB 5403, chapter 10, Laws of 2003) included provision to eliminate continuous eligibility for child and implement six-month reviews for family and children's medical programs.

Citation of Existing Rules Affected by this Order: Amending WAC 388-416-0015, 388-418-0005, 388-418-0025 and 388-434-0005.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.530, and the fiscal year 2003 supplemental budget (SSB 5403, chapter 10, Laws of 2003).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Budget assumptions included in the fiscal year 2003 supplemental budget include savings that will result from policy changes affecting the rules listed in this order. Further, all changes that may be construed to result in more restrictive eligibility under the Medicaid program must be implemented before September 2, 2003, to ensure state receipt of enhanced federal funding made available under the federal Jobs and Growth Tax Relief Reconciliation Act of 2003, HR.2. Observing the time requirements of regular rule-making procedures would prevent the department from implementing the changes in a timeframe that is required under the spending authority in the supplemental budget. It would, in addition, prevent implementation of the changes prior to the deadline to ensure receipt of the enhanced federal funding. Therefore, immediate adoption of the proposed amendments is necessary to implement the State Supplemental Budget Act and ensure receipt of enhanced federal funding of the Medicaid program.

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 4, 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 4, Repealed 0.

Effective Date of Rule: July 1, 2003.

June 23, 2003

Brian H. Lindgren, 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 03-15 issue of the Register.

WSR 03-14-061

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 25, 2003, 4:27 p.m.]

Date of Adoption: June 23, 2003.

Purpose: Copayment levels of \$25 or more a month for families of the subsidized child care program (working connections child care, WCCC) will increase by \$25. The WCCC program will also cease authorization of unfunded portions of the program. These changes are due to budget shortfalls and at the request of the governor. The sections of chapter 388-290 WAC that are being revised are WAC 388-290-0075, 388-290-0085, and 388-290-0190. WAC 388-290-0210 is being repealed.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-290-0210; and amending WAC 388-290-0075, 388-290-0085, and 388-290-0190.

Statutory Authority for Adoption: RCW 74.04.050, 74.13.085, and 74.12.340.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The governor has directed the Department of Social and Health Services to increase copayment levels for families of the subsidized child care program and cease authorization of unfunded portions of the program due to budget shortfalls. All families currently paying a \$25 a month or larger copay will have their ongoing copay increased by \$25. The department has filed notice of intent in WSR 02-20-055 to adopt the rule as permanent, and is actively undertaking appropriate procedures to adopt the permanent rule.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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 3, Repealed 1.

Effective Date of Rule: Immediately.

June 23, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-14-067, filed 6/27/02, effective 8/1/02)

WAC 388-290-0075 What are the steps the WCCC program takes to determine my family's WCCC eligibility and copayment amount? The WCCC program takes the following steps to determine your WCCC income eligibility and copayment:

- (1) Determine your family size (under WAC 388-290-0015); and
- (2) Determine your countable income (under WAC 388-290-0065).
- (3) If your family's countable monthly income falls within the range below, then your copayment is:

YOUR INCOME	YOUR COPAYMENT is:
At or below 82% of the FPL	\$15
Above 82% of the FPL up to 137.5% of the FPL	\$((25)) 50
Above 137.5% of the FPL -200% of the FPL	The dollar amount equal to subtracting 137.5% of FPL from countable income, multiplying by 44%, then adding \$((25)) 50
Income above 200% of the FPL, you are not eligible for WCCC benefits.	

AMENDATORY SECTION (Amending WSR 02-14-067, filed 6/27/02, effective 8/1/02)

WAC 388-290-0085 When might my WCCC copayment change? (1) Once we have determined that you are eligible for WCCC benefits, your copayment could change when:

- (a) Your activity changes under WAC 388-290-0040, 388-290-0045, or 388-290-0050;
 - (b) Your monthly income decreases;
 - (c) Your family size increases;
 - (d) You are no longer eligible for the three-month TANF grant exemption under WAC 388-290-0070(h) or the minimum copayment under WAC 388-290-0090;
 - (e) There is a mass change in benefits due to a change in law or program funding.
- (2) If your copayment changes during your eligibility period, the change is effective the first of the month following the change.
- (3) We do not increase your copayment during your current eligibility period when your countable income remains at or below two hundred percent of the FPL, and:
- (a) Your monthly countable income increases; or
 - (b) Your family size decreases.

AMENDATORY SECTION (Amending WSR 02-12-069, filed 5/31/02, effective 7/1/02)

WAC 388-290-0190 What does the WCCC program pay for and when can the program pay more? (1) We pay for:

- (a) Basic child care hours, either full day, half day or hourly:
 - (i) A full day of child care is authorized to licensed/certified facilities and seasonal day camps that have contracted with us to provide subsidized child care when care is needed for five or more hours per day;
 - (ii) A half day of child care is authorized to licensed/certified facilities and seasonal day camps that have contracted with us to provide subsidized child care when care is needed for less than five hours per day; and
 - (iii) Hourly child care is authorized when the provider is an in-home/relative.
 - (b) A registration fee (under WAC 388-290-0245);
 - (c) An activity fee (under WAC 388-290-0245);
 - (d) ~~((Care for nonstandard hours (under WAC 388-290-0210 and 388-290-0215);~~
 - (e)) An infant bonus (under WAC 388-290-0250); and
 - ~~((f))~~ (e) Special needs care when the child has a documented need for higher level of care (under WAC 388-290-0220, 388-290-0225, 388-290-0230, and 388-290-0235).
- (2) We pay more than the basic child care subsidy daily rate if:
 - (a) Care is not available at our daily rate within a reasonable distance, then the provider's usual daily rate is authorized; or
 - (b) Care is over ten hours per day, then an additional amount of care is authorized.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-290-0210 When can the WCCC program authorize the nonstandard hour child care bonus?

**WSR 03-14-073
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-139—Filed June 26, 2003, 4:08 p.m., effective July 1, 2003, 12:01 a.m.]

Date of Adoption: June 26, 2003.
Purpose: Amend personal use rules.
Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900L; and amending WAC 232-28-619.
Statutory Authority for Adoption: RCW 77.12.047.
Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or

EMERGENCY

general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A strong run of summer chinook will pass Priest Rapids in 2003. The expected spawning escapement will greatly surpass hatchery broodstock needs and allows for a significant increase over brood levels of natural escapement. This stock is not listed under the Endangered Species Act, and the proposed fishery is deemed by the NOAA Fisheries as not likely to have negative impacts on listed fish species. 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: July 1, 2003, 12:01 a.m.

June 26, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-28-61900P Exceptions to statewide rules—Columbia, Cowlitz, Green, Klickitat, Lewis, Okanogan, Toutle, Washougal and Wind River. Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. July 1, 2003, until further notice, it is unlawful to violate the following provisions, provided that unless otherwise amended all permanent rules remain in effect:

(1) Columbia River:

(a) Buoy 10 line to Rocky Point-Tongue Point line:

(i) Effective immediately through July 31, closed to salmon fishing.

(ii) Effective August 1 through August 15, open for salmon fishing with a daily limit of two salmon, no more than one chinook. Chinook minimum size 24 inches, coho minimum size 16 inches. Release sockeye, chum and wild coho.

(iii) Effective August 16 until further notice, open for salmon fishing with a daily limit of three salmon, no more than one chinook. Chinook minimum size 24 inches, coho minimum size 16 inches. Release sockeye, chum and wild coho.

(b) Rocky Point-Tongue Point line to I-5 Bridge:

(i) Effective immediately through July 31, open for salmon fishing with a daily limit of six salmon, no more than

two adults. Release wild chinook. Release sockeye, chum and wild coho.

(ii) Effective August 1 until further notice, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release sockeye, chum and wild coho.

(c) I-5 Bridge to Bonneville Dam:

(i) Effective immediately through July 31, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release wild chinook. Release sockeye, chum and wild coho.

(ii) Effective August 1 until further notice, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release sockeye, chum and wild coho.

(d) Bonneville Dam to The Dalles Dam:

(i) Effective immediately through July 31, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release wild chinook. Release sockeye and chum.

(ii) Effective August 1 until further notice, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release sockeye and chum.

(iii) Effective August 1 until further notice, all species, night closure and non-buoyant lure restriction.

(e) The Dalles Dam to McNary Dam:

(i) Effective immediately through July 31, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release wild chinook. Release sockeye and chum.

(ii) Effective August 1 until further notice, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release sockeye and chum.

(f) McNary Dam to Highway 395 Bridge at Pasco.

(i) Effective immediately through July 31, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release wild chinook. Release sockeye and chum.

(ii) Effective August 1 until further notice, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release sockeye and chum.

(g) The Highway 395 Bridge at Pasco upstream to Priest Rapids Dam.

(i) Effective immediately through July 31, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release sockeye.

(h) From Priest Rapids Dam upstream to Wells Dam and between the Highway 173 Bridge at Brewster and Highway 17 Bridge at Bridgeport.

(i) Effective July 16 through October 15, 2003, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release sockeye and coho.

(2) Cowlitz River (Lewis County): Boundary markers at mouth to 400 feet or posted deadline below Barrier Dam:

(a) Effective immediately through July 31, open for salmon fishing with a daily limit of six salmon, no more than two adults. Release wild chinook.

(b) Effective August 1 until further notice, open for salmon fishing with a daily limit of six salmon, no more than three adults, of which no more than two may be adult chinook. Release chum and wild coho.

(3) Green River (Cowlitz Co.): Mouth to 2800 Road Bridge:

(a) Effective immediately through July 31, open for salmon fishing, daily limit of six salmon, no more than two adults. Release wild chinook.

(b) Effective August 1 until further notice, open for salmon fishing, daily limit six salmon, no more than three adults, of which no more than two may be adult chinook. Release chum and wild coho.

(4) Klickitat River (Klickitat Co.):

(a) Mouth to Fisher Hill Bridge:

(i) Effective immediately until further notice, open for salmon fishing, daily limit of six salmon, no more than two adults.

(ii) Effective August 1 until further notice, non-buoyant lure restriction.

(b) From 400' upstream from #5 fishway to boundary markers below the Klickitat Salmon Hatchery, effective immediately until further notice, open for salmon fishing, daily limit of six salmon, no more than two adults.

(5) Lewis River (Clark Co.): Boundary markers at mouth to mouth of the East Fork:

(a) Effective immediately through July 31, open for salmon fishing, daily limit six, no more than two adults. Release wild chinook.

(b) Effective August 1 until further notice, open for salmon fishing, daily limit of six salmon, no more than three adults, of which no more than two may be adult chinook. Release chum and wild coho.

(6) Lewis River, North Fork (Cowlitz Co.): Mouth to overhead power lines below Merwin Dam:

(a) Effective immediately through July 31, open for salmon fishing, daily limit of six salmon, no more than two adults. Release wild chinook.

(b) Effective immediately until further notice, open for trout fishing, daily limit two. Release wild cutthroat. Minimum size 20 inches.

(c) Effective immediately until further notice, lawful to fish from a floating device in those waters from Johnson Creek upstream to Colvin Creek.

(d) Effective August 1 until further notice, open for salmon fishing, daily limit of six salmon, no more than three adults, of which no more than two may be adult chinook. Release chum and wild coho.

(e) Effective immediately until further notice, upstream of Johnson Creek, all species, night closure and non-buoyant lure restriction.

(7) Okanogan River (Okanogan Co.): Downstream of the Highway Bridge 97 Bridge to the mouth: Effective July 16 through October 15, 2003, open to salmon fishing, daily limit of six salmon, no more than two adults. Release sock-eye and coho.

(8) Toutle River (Cowlitz Co.): Mouth to forks: Effective August 1 until further notice, open for salmon fishing, daily limit of six salmon, no more than three adults, of which no more than two may be adult chinook. Release chum and wild coho.

(9) Toutle River, North Fork (Cowlitz Co.): Mouth to posted deadline below the fish collection facilities: Effective

August 1 until further notice, open for salmon fishing, daily limit of six salmon, no more than three adults, of which no more than two may be adult chinook. Release chum and wild coho.

(10) Washougal River (Clark County): Mouth to Salmon Falls Bridge: Effective August 1 until further notice, open for salmon fishing, daily limit of six salmon, no more than three adults, of which no more than two may be adult chinook. Release chum and wild coho.

(11) Wind River (Skamania County): Mouth (boundary line markers) to 400 feet below Shipherd Falls: Effective August 1 until further notice, open for salmon fishing, daily limit of six salmon, no more than two adults. Release all chinook from the Burlington Northern Railroad Bridge to 400 feet below Shipherd Falls. All species, non-buoyant lure restriction.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 1, 2003:

WAC 232-28-61900L Exceptions to statewide
rules—2003 North of Falcon.
(03-127)

WSR 03-14-076

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed June 27, 2003, 2:03 p.m.]

Date of Adoption: June 17, 2003.

Purpose: The department is amending WAC 388-805-005, 388-805-030, 388-805-065, 388-805-145, 388-805-205, 388-805-300, 388-805-710, 388-805-720, 388-805-730, 388-805-740 and 388-805-750, and implementing new WAC 388-805-035 and 388-805-040, regulating opiate substitution treatment programs. Emergency WAC adoptions were submitted to the Washington State Code Reviser's Office on March 8, 2002, July 5, 2002, November 1, 2002, and February 28, 2003, that modified Washington administrative codes to begin recognizing the Center for Substance Abuse Treatment (CSAT), Substance Abuse and Mental Health Services Administration (SAMHSA) certification standards and implement the requirements of SSB 5417, an act relating to opiate substitution treatment programs that amended chapter 70.96A RCW effective July 22, 2001. This emergency rule adoption will extend the current emergency rules, filed as WSR 03-06-059, for another one hundred twenty days. A preproposal statement of inquiry was filed as WSR 02-10-112. A proposed rule making notice (CR-102) was filed as WSR 03-12-066 on June 2, 2003, and the department is actively undertaking appropriate procedures to adopt the

rules as permanent rules. A public hearing is scheduled for August 5, 2003.

Citation of Existing Rules Affected by this Order: Amending WAC 388-805-005, 388-805-030, 388-805-065, 388-805-145, 388-805-205, 388-805-300, 388-805-710, 388-805-720, 388-805-730, 388-805-740, and 388-805-750.

Statutory Authority for Adoption: Chapter 70.96A RCW, and 42 Code of Federal Regulations (C.F.R.), Part 8.

Other Authority: SSB 5417 (chapter 242, Laws of 2001).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The CSAT, SAMHSA adopted 42 C.F.R., Part 8, Certification of Opioid Treatment Programs on January 17, 2001, effective May 18, 2001, regulating opiate substitution treatment programs. SSB 5417, an act relating to opiate substitution treatment programs, amended chapter 70.96A RCW effective July 22, 2001. Emergency rules are necessary to continue receiving federal CSAT grant funds, and to permit the department to certify eligible opioid treatment programs while permanent rules are being developed. A proposed rule making notice (CR-102) was filed as WSR 03-12-066 on June 2, 2003, and the department is actively undertaking appropriate procedures to adopt the rules as permanent rules. A public hearing on the proposed rules is scheduled for August 5, 2003.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 11, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 11, Repealed 0.

Effective Date of Rule: Immediately.

June 17, 2003

Brian H. Lindgren, 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 03-15 issue of the Register.

WSR 03-14-081

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Rehabilitative Services Administration)

[Filed June 27, 2003, 2:07 p.m.]

Date of Adoption: June 25, 2003.

Purpose: Adopting new WAC 388-865-0217, to implement a state funded eligible category, psychiatric indigent inpatient program, to provide emergent psychiatric inpatient service to qualified persons. This program will replace the psychiatric inpatient portion of medical indigent program, which is ending on June 30, 2003.

Statutory Authority for Adoption: RCW 71.05.560, 71.24.035, and 71.34.800.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: In adopting the 2003-2005 operating budget (ESSB 5404), the legislature eliminated funding for the medically indigent program effective June 30, 2003. Without adoption of this emergency rule, the suspension of medically indigent program will leave persons who need emergent psychiatric inpatient care without resources.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 25, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-865-0217 Psychiatric indigent inpatient program. (1) The psychiatric indigent inpatient (PII) program is a state funded, limited casualty (LCP) program specifically for mental health clients identified in need of inpatient psychiatric care by the regional support network (RSN).

(2) The psychiatric indigent inpatient (PII) program pays only for emergent voluntary inpatient psychiatric care in community hospitals within the state of Washington. Psychiatric indigent inpatient (PII) does not cover ancillary charges for physician, transportation, pharmacy or other costs associated with a voluntary inpatient psychiatric hospitalization.

(3) To be eligible for the psychiatric indigent inpatient (PII) program, a client is subject to the following conditions and limitations:

(a) The client must have a voluntary inpatient psychiatric admission authorized by a regional support network (RSN) in the month of application or within the three months immediately preceding the month of application.

(b) If a client's income and/or resources exceed the standard for medically needy (MN), as described in WAC 388-478-0070, the excess must be spend down as described in 388-519-0100 for the client to be eligible for the psychiatric indigent inpatient (PII) program.

(c) A client must have incurred an emergency medical expense requirement (EMER) of two thousand dollars over a twelve-month period.

(i) Qualifying emergency medical expense requirement (EMER) expenses are psychiatric indigent inpatient (PII) services in a community hospital.

(ii) The emergency medical expense requirement (EMER) period lasts for twelve calendar months, beginning on the first day of the month of certification for psychiatric indigent inpatient (PII) and continuing through the last day of the twelfth month.

(d) A client is limited to a single three-month period of psychiatric indigent inpatient (PII) eligibility per twelve-month emergency medical expense requirement (EMER) period.

(4) Consumers applying for the psychiatric indigent inpatient (PII) program are subject to the resource rules for TANF and TANF-related clients in chapter 388-470 WAC.

(5) Clients are not eligible for the psychiatric indigent inpatient (PII) program if they:

(a) Are eligible for, or receiving, any other cash or medical program; or

(b) Entered the Washington state specifically to obtain medical care; or

(c) Are an inmate of a federal or state prison.

WSR 03-14-084
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-140—Filed June 27, 2003, 2:21 p.m., effective July 3, 2003,
12:01 a.m.]

Date of Adoption: June 27, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-24-04000K; and amending WAC 220-24-040.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: A harvestable surplus of salmon is available for the troll fleet. These rules are adopted at the recommendation of the Pacific Fisheries Management Council, in accordance with preseason fishing plans. 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: July 3, 2003, 12:01 a.m.

June 27, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-24-04000K All-citizen commercial salmon troll. Notwithstanding the provisions of WAC 220-24-040, effective 12:01 a.m. July 3, 2003, until further notice it is unlawful to fish for salmon with troll gear or to land salmon taken with troll gear into a Washington port except during the seasons provided for in this section:

(1) Salmon Management and Catch Reporting Areas 1, 2, 3 and that portion of Area 4 west of 125°05'00" W longitude and south of 48°23'00" N latitude open:

July 3 through July 7;

July 10 through July 14;

July 17 through July 21;

July 24 through July 28;

July 31 through August 4;

August 7 through August 11;

August 14 through August 18;

August 21 through August 25;

August 28 through September 1;

September 4 through September 8;

September 11 through September 14.

(2) Landing and possession limit of 75 chinook will apply to the July 3 through July 7 period.

Landing and possession limit of 150 chinook will apply per open period for the remainder of the season.

(3) The Cape Flattery and Columbia River Control Zones are closed. Effective August 16 through September 14, 2003 the Grays Harbor Control Zone is closed.

(4) Minimum size for chinook salmon is 28 inches in length and 16 inches for coho. All retained coho must have a healed adipose fin clip. No minimum size for pink, sockeye or chum. No chum retention is allowed north of Cape Alava during August and September.

(5) Lawful troll gear is restricted to all legal troll gear with single point, single shank barbless hooks.

(6) Fishers must land and deliver their catch within 24 hours of any closure of a fishery provided for in this section, and must land within the Salmon Management and Catch Reporting Areas 1, 2, 3 or 4, or in Garibaldi, Oregon.

(7) The Cape Flattery Control Zone is defined as the area from Cape Flattery (48°23'00" N latitude) to the northern boundary of the U.S. EEZ: and the area from Cape Flattery south to Cape Alava, 48°10'00" N latitude and west of 125°05'00" W longitude.

(8) Columbia Control Zone - An area at the Columbia River mouth, bounded on the west by a line running north-east/southwest between the red lighted Buoy #4 (46°13'35" N. Lat., 124°06'50" W. long.) and the green lighted Buoy #7 (46°15'09" N. lat., 124°06'16" W. long.); on the east, by the Buoy #10 line which bears north/south at 357° true from the south jetty at 46°14'00" N. lat., 124°03'07" West. long. to its intersection with the north jetty; on the north, by a line running northeast/southwest between the green lighted Buoy #7 to the tip of the north jetty (46°14'48" N. lat., 124°05'20" W. long.) and then along the north jetty to the point of intersection with the Buoy #10 line; and, on the south, by a line running northeast/southwest between the red lighted Buoy #4 and tip of the south jetty (46°14'03" N. lat., 124°04'05" W. long.), and then along the south jetty to the point of intersection with the Buoy #10 line.

(9) Grays Harbor Control Zone - The area defined by a line drawn from the Westport Lighthouse (46°53'18" N. lat., 124°07'01" W. long) to Buoy #2 (46°52'42" N. lat., 124°12'42" W. long.) to Buoy #3 (46°55'00" N. lat., 124°14'48" W. long.) to the Grays Harbor North Jetty (46°36'00" N. lat., 124°10'51" W. long.).

(10) It is unlawful to fish in Salmon Management and Catch Reporting Areas 1, 2, 3 or 4 with fish on board taken south of Cape Falcon, Oregon, and all fish taken from Salmon Management and Catch Reporting Areas 1, 2, 3, and 4 must be landed before fishing south of Cape Falcon, Oregon.

(11) It is unlawful for wholesale dealers and trollers retailing their fish to fail to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1279 or faxing the information to (360) 902-2949 or E-mailing to trollfishtickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species. The total number for each species and the total weight for each species including halibut.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 15, 2003:

WAC 220-24-04000K All-citizen commercial salmon troll.

WSR 03-14-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-143—Filed June 27, 2003, 2:22 p.m., effective July 1, 2003,
10:00 a.m.]

Date of Adoption: June 27, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000P and 220-52-04600Z; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The limited commercial fishery in these marine fish - shellfish management and catch reporting areas are to take advantage of harvest opportunity and to maintain commercial harvest allocation plans. 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: July 1, 2003, 10:00 a.m.

June 27, 2003

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-04000P Commercial crab fishery—Exceptions to permanent rules for pot limits. Notwithstanding the provisions of WAC 220-52-040, effective 10:00 a.m. July 1, 2003 to 4:00 p.m. July 2, 2003 it is unlawful for any person to fish for crabs for commercial purposes with more than 40 pots per license, per buoy tag number in all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A-E.

NEW SECTION

WAC 220-52-04600Z Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, it will be lawful to fish for Dungeness Crab for commercial purposes from 10:00 a.m. July 1, 2003 to 4:00 p.m. July 2, 2003 in Marine Fish Shellfish Catch Areas 24A, 24B, 24C, 24D, and 26A-E.

REPEALER

The following sections of the Washington Administrative Code are repealed effective 4:01 p.m. July 2, 2003:

- WAC 220-52-04000P Commercial crab fishery—Exceptions to permanent rules for pot limits.
- WAC 220-52-04600Z Crab fishery—Seasons and areas.

**WSR 03-14-086
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-141—Filed June 27, 2003, 2:23 p.m., effective July 5, 2003]

Date of Adoption: June 27, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-40-02100X; and amending WAC 220-40-021.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of salmon are available for commercial harvest. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 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: July 5, 2003.

June 27, 2003
J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-40-02100X Willapa Bay salmon—Summer fishery. Notwithstanding the provisions of WAC 220-40-021, effective July 5 through August 15, 2003, 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 as provided for in this section:

- (1) Fishing periods:
 - 4:00 a.m. July 22 through 6:00 p.m. July 22,
 - 4:00 a.m. July 23 through 6:00 p.m. July 23,
 - 4:00 a.m. July 30 through 6:00 p.m. July 30,
 - 4:00 a.m. July 31 through 6:00 p.m. July 31,
 - 4:00 a.m. August 7 through 6:00 p.m. August 7,
 - 4:00 a.m. August 8 through 6:00 p.m. August 8, 2003.
- (2) Open Area:

Area 2G west of a true north-south line drawn through Willapa Channel Marker 8 and east of a line drawn true south from the most waterward exposed end of the rock jetty located near Washaway Beach but excluding the area southerly and westerly of a line from Island Sands Light to Ramsey Point.

(3) The Tokeland Boat basin is closed to commercial fishing during the openings in Area 2G described in this section. The Tokeland Boat basin means that portion of Area 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

- (4) Gear:
 - (a) Drift gill net gear only. It is unlawful to use set net gear.
 - (b) 8 1/2 inch maximum stretch mesh restriction.
- (5) Other Requirements:
 - (a) Fishers must notify WDFW in advance of the season of their intent to participate in the fishery. Notification may be made by fax (360-664-0689), by telephone (1-866-791-1280), or by email (harborfishtickets@dfw.wa.gov).
 - (b) Fishers must also notify WDFW at least 24 hours in advance of intent to fish any given day. Notification may be

EMERGENCY

made by fax (360-664-0689), by telephone (1-866-791-1280), or by email (harborfishtickets@dfw.wa.gov).

(c) Fishers must be willing to take WDFW observers when participating in these openings.

(d) Sturgeon retention will be allowed within annual commercial harvest ceiling for white sturgeon.

(e) Total daily catch must be landed and made available for WDFW sampling at the Tokeland Marina, in Tokeland or Fuel Dock at Port of Peninsula, in Nahcotta between 5 p.m. and 7:00 p.m. on each open fishing day (July 22, 23, 30, 31, and August 7, 8).

REPEALER

The following section of the Washington Administrative Code is repealed effective August 16, 2003:

WAC 220-40-02100X Willapa Bay salmon—Summer fishery.

**WSR 03-14-093
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 03-142—Filed June 30, 2003, 2:55 p.m., effective July 1, 2003, 12:01 a.m.]

Date of Adoption: June 30, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900N; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is intended to keep the recreational harvest of sturgeon from Bonneville Reservoir and its tributaries within the established harvest guidelines. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: July 1, 2003, 12:01 a.m.

June 30, 2003

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 232-28-61900Q Exceptions to statewide rules—Columbia River (sturgeon). Notwithstanding the provisions of WAC 232-28-619:

(1) Effective immediately through September 30, 2003, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from the mouth upstream to the Wauna power lines.

(2) Effective immediately until further notice it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from The Dalles Dam to John Day Dam.

(3) Effective 12:01 a.m. July 7, 2003, until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam to The Dalles Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. July 1, 2003:

WAC 232-28-61900N Exceptions to statewide rules—Columbia River (sturgeon). (03-136)

**WSR 03-14-104
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed June 30, 2003, 3:47 p.m., effective July 1, 2003]

Date of Adoption: June 25, 2003.

Purpose: The medically indigent program will be eliminated effective July 1, 2003. Funding for the medically indigent program was not appropriated in the state's 2003-2005 omnibus operating budget.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-438-0100; and amending WAC 388-438-0110 and 388-503-0505.

Statutory Authority for Adoption: Section 209, Part II, 2003-2005 Omnibus Operating Budget (ESSB 5404).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Operating funds for the medically indigent program were not appropriated under the state's 2003-2005 omnibus operating budget (ESSB 5404).

EMERGENCY

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 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 1.

Effective Date of Rule: July 1, 2003.

June 25, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

WAC 388-503-0505 General eligibility requirements for medical programs. (1) Persons applying for benefits under the medical coverage programs established under chapter 74.09 RCW must meet the eligibility criteria established by the department in chapters 388-400 through 388-555 WAC.

(2) Persons applying for medical coverage are considered first for federally funded or federally matched programs. State-funded programs are considered after federally funded programs are not available to the client except for brief periods when the state-funded programs offer a broad scope of care which meet a specific client need.

(3) Unless otherwise specified in program specific WAC, the eligibility criteria for each medical program is as follows:

(a) Verification of age and identity (chapters 388-404, 388-406, and 388-490 WAC); and

(b) Residence in Washington state (chapter 388-468 WAC); and

(c) Citizenship or immigration status in the United States (chapter 388-424 WAC); and

(d) Possession of a valid Social Security Account Number (chapter 388-476 WAC); and

(e) Assignment of medical support rights to the state of Washington (WAC 388-505-0540); and

(f) Cooperation in securing medical support (chapter 388-422 WAC); and

(g) Countable resources within program limits (chapters 388-470 and 388-478 WAC); and

(h) Countable income within program limits (chapters 388-450 and 388-478 WAC).

(4) In addition to the general eligibility requirements in subsection (3) of this section, each program has specific eligibility requirements as described in applicable WAC.

(5) Persons living in a public institution, including a correctional facility, are not eligible for the department's medical coverage programs. ~~((A person living in a city or county jail may be considered only for the medically indigent (MI) program.))~~ For a person under age twenty or over age sixty-five who is a patient in an institution for mental disease see WAC 388-513-1315(13) for exception.

(6) Persons terminated from SSI or TANF cash grants and those who lose eligibility for categorically needy (CN) medical coverage have their CN coverage continued while their eligibility for other medical programs is redetermined. This continuation of medical coverage is described in chapter 388-434 WAC.

AMENDATORY SECTION (Amending WSR 02-17-030, filed 8/12/02, effective 9/12/02)

WAC 388-438-0110 The alien emergency medical (AEM) program. (1) The alien emergency medical (AEM) program is a federally-funded program. It is for aliens who are ineligible for other Medicaid programs, due to citizenship or alien status requirements described in WAC 388-424-0005 and 388-424-0010.

(2) Except for the social security number, citizenship, or alien status requirements, an alien must meet categorical Medicaid eligibility requirements as described in:

(a) WAC 388-505-0110, for an SSI-related person;

(b) WAC 388-505-0220, for family medical programs;

(c) WAC 388-505-0210, for a child under the age of nineteen; or

(d) WAC 388-523-0100, for medical extensions.

(3) When an alien has monthly income which exceeds the CN medical standards, the department will consider AEM medically needy coverage for children or for adults who are age sixty-five or over or who meet SSI disability criteria. See WAC 388-519-0100.

(4) To qualify for the AEM program, the alien must meet one of the criteria described in subsection (2) of this section and have:

(a) An emergency medical condition as described in WAC 388-500-0005; or

(b) Been approved by the department as requiring nursing facility or COPES level of care.

(5) The alien's date of arrival in the United States is not used when determining eligibility for the AEM program.

(6) The department does not deem a sponsor's income and resources as available to the client when determining eligibility for the AEM program. The department counts only the income and resources a sponsor makes available to the client.

(7) Under the AEM program, a person receives CN scope of care, as described in WAC 388-529-0100. Covered services are limited to those medical services necessary for treatment of the person's emergency medical condition. The following services are not covered:

(a) Organ transplants and related services;

(b) Prenatal care, except labor and delivery; and

(c) School-based services.

(8) A person whose income exceeds the CN income standard has spenddown liability and MN scope of care.

(9) A person determined eligible for the AEM program is certified for three months. The number of three-month certification periods is not limited, but, the person must continue to meet eligibility criteria in subsection (2) and (3) of this section.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-438-0100 Medically indigent (MI) program.

**WSR 03-14-105
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)**

[Filed June 30, 2003, 3:48 p.m., effective July 1, 2003]

Date of Adoption: June 27, 2003.

Purpose: The proposed amendment will eliminate the transitional work expense from authorized WorkFirst support services. It will also reduce the amount that can be spent on different support services. These changes are needed to keep WorkFirst support services expenditures within the amount budgeted. A CR-101 preproposal statement of inquiry, WSR 03-11-087, has been filed to initiate the regular adoption process.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0800 and 388-310-1800.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, and 78.08A.340.

Other Authority: 2001-03 Supplemental Budget (section 207, chapter 10, Laws of 2003).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This change is necessary to save federal TANF funds that currently [are] being overexpended. If we overexpend federal funds, we must use general state funds to make up the overexpenditure. We do not have the authority to do this because funds 2001-2003 supplemental budget (chapter 10, Laws of 2003) have not been appropriated for this purpose.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Effective Date of Rule: July 1, 2003.

July 27, 2003

Brian H. Lindgren, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-11-130, filed 5/21/02, effective 7/1/02)

WAC 388-310-0800 WorkFirst—Support services.

(1) Who can get support services?

People who can get support services include:

(a) WorkFirst participants who receive a TANF cash grant;

(b) Sanctioned WorkFirst participants during the (~~two-week~~) required participation before the sanction is lifted (WAC 388-310-1600);

(c) Unmarried or pregnant minors who are income eligible to receive TANF and are:

(i) Living in a department approved living arrangement (WAC 388-486-0005) and are meeting the school requirements (WAC 388-486-0010); or

(ii) Are actively working with a social worker and need support services to remove the barriers that are preventing them from living in a department approved living arrangements and/or meeting the school requirements.

(d) Former WorkFirst recipients who are working at least twenty hours or more per week for up to (~~one year~~) six months after leaving TANF if they need support services to meet a temporary emergency. This can include up to four weeks of support services if they lose a job and are looking for another one (see also WAC 388-310-1800); or

(e) American Indians who receive a TANF cash grant and have identified specific needs due to location or employment.

(2) Why do I receive support services?

Although not an entitlement, you may receive support services for the following reasons:

(a) To help you participate in work and WorkFirst activities that lead to independence.

(b) To help you to participate in job search, accept a job, keep working, advance in your job, and/or increase your wages.

(c) You can also get help in paying your child care expenses through the working connections child care assistance program. (Chapter 388-290 WAC describes the rules for this child care assistance program.)

(3) What type of support services may I receive and what limits apply?

EMERGENCY

There is a limit of three thousand dollars per person per program year (July 1st to June 30th) for WorkFirst support services you may receive. Most types of support services have dollar limits.

The chart below shows the types of support services that are available for the different activities (as indicated by an "x") and the limits that apply.

Definitions:

• Work-related activities include looking for work or participating in workplace activities, such as community jobs or a work experience position.

•• Safety-related activities include meeting significant or emergency family safety needs, such as dealing with family violence. When approved, safety-related support services can exceed the dollar or category limits listed below.

••• Some support services are available if you need them for other required activities in your IRP.

Type of support service	Limit	• Work	•• Safety	••• Other
Reasonable accommodation for employment	\$1,000 for each request	x		
Clothing/uniforms	(\$200) \$75 per adult per program year	x		
Diapers	\$50 per child per month	x		
Haircut	\$40 per each request	x		
Lunch	Same rate as established by OFM for state employees	x		
Personal hygiene	\$50 per adult per program year	x		
Professional, trade, association, union and bonds	\$300 for each fee	x		
Relocation related to employment (can include rent, housing, and deposits)	\$1,000 per program year	x		
Short-term lodging and meals in connection with job interviews/tests	Same rate as established by OFM for state employees	x		
Tools/equipment	\$500 per program year	x		
Car repair needed to restore car to operable condition	(\$500) \$250 per program year	x	x	
License/fees/liability insurance	(\$600) \$130 per program year	x	x	
Mileage, transportation, and/or public transportation	Same rate as established by OFM for state employees	x	x	
Transportation allotment	Up to: \$10 for immediate need, or \$20 twice a month if you live within 40 miles of your local WorkFirst office, or \$30 twice a month if you live more than 40 miles from your local WorkFirst office.	x	x	
Counseling	No limit	x	x	x
Educational expenses	\$300 for each request if it is an approved activity in your IRP and you do not qualify for sufficient student financial aid to meet the cost	x		x
Medical exams (not covered by Medicaid)	\$150 per exam	x	x	x
Public transportation	\$150 per month	x	x	x
Testing-diagnostic	\$200 each	x	x	x

(4) What are the other requirements to receive support services?

Other restrictions on receiving support services are determined by the department or its agents. They will decide what support services you receive, as follows:

- (a) It is within available funds; and
- (b) It does not assist, promote, or deter religious activity; and

(c) There is no other way to meet the cost.

(5) ((What is a transitional work expense?

~~(a) A transitional work expense is a special type of support services that is only paid once in a lifetime. It is authorized in two payments of five hundred dollars to cover your work expenses and help you exit TANF sooner and stay off of assistance longer. The first payment is made in the month~~

EMERGENCY

after your TANF grant closes if you can show you have a plan for staying employed and off of TANF.

(b) ~~To qualify for the first transitional work expense payment of five hundred dollars, you must also meet the following conditions:~~

~~(i) You are in unsubsidized employment; or~~

~~(ii) You are in subsidized employment that does not use TANF funds or does not end with your TANF grant; and~~

~~(iii) You are in the assistance unit and getting a TANF/SFA grant of one hundred dollars or less a month; and~~

~~(iv) Neither you or anyone else in your assistance unit is in sanction status; and~~

~~(v) You voluntarily stop getting your TANF/SFA grant.~~

~~(e) To qualify for the second payment of five hundred dollars you must meet the following conditions:~~

~~(i) Have not received a TANF/SFA grant or diversion cash assistance (DCA) for three months after you stopped your TANF/SFA grant; and~~

~~(ii) Are still employed.~~

(6)) What happens to my support services if I do not participate as required?

The department will give you ten days notice, following the rules in WAC 388-310-1600, then discontinue your support services until you participate as required.

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 02-15-067, filed 7/11/02, effective 8/1/02)

WAC 388-310-1800 WorkFirst—Post employment services. (1) **What is the purpose of post employment services?**

Post employment services help low-income parents who are working twenty hours or more a week keep and cope with their current jobs, look for better jobs, gain work skills for a career and become self sufficient.

(2) How do I obtain post employment services?

(a) You can obtain post employment services by:

(i) Asking for a referral from the local community service office;

(ii) Contacting community or technical colleges; or

(iii) Contacting the employment security department.

Employment security department staff may also telephone you if you got a job while you were on TANF or SFA to see if you are interested in receiving these services.

(b) You may qualify for different services (from various state or federal programs) depending on whether you:

(i) Are a mandatory participant (that is, you currently receive TANF or SFA benefits);

(ii) Used to receive TANF or SFA benefits; or

(iii) Have never been on TANF or SFA.

(3) Who provides post employment services and what kind of services do they provide?

(a) The employment security department can help you increase your wages, increase your job skills or find a better job by providing you with:

(i) Employment and career counseling;

(ii) Labor market information;

(iii) Job leads for a better job (sometimes called job development);

(iv) On the job training;

(v) Help with finding a job that matches your interests, abilities and skills (sometimes called job matching); and

(vi) Help with finding a new job after job loss (sometimes called reemployment).

(b) Any Washington state technical and community college can approve a skill-training program for you that will help you advance up the career ladder. Their staff will talk to you, help you decide what training would work best for you and then help you get enrolled in these programs. The college may approve the following types of training for you at any certified institution:

(i) High school/GED,

(ii) Vocational education training,

(iii) Job skills training,

(iv) Adult basic education,

(v) English as a second language training, or

(vi) Preemployment training.

(4) What other services are available while you receive post employment services?

While you receive post employment services, you may qualify for:

(a) Working connections childcare if you meet the criteria for this program (described in chapter 388-290 WAC).

(b) Other support services, such as help in paying for transportation or work expenses.

(c) Other types of assistance for low-income families such as food stamps, medical assistance or help with getting child support that is due to you and your children.

(5) Who is eligible for post employment service, support services and childcare?

You may qualify for post employment services, support services and child care if you are working twenty hours or more a week, and:

(a) You are current TANF or SFA recipient. You qualify for:

(i) All types of post employment services, unless you are in sanction status;

(ii) Tuition assistance from the community and technical college system;

(iii) WorkFirst support services; and

(iv) Working connections childcare.

(b) You are a former TANF or SFA recipient. You qualify for:

(i) Employment retention services (help with keeping a job) for up to ~~((twenty-four))~~ twelve months after exiting TANF or SFA.

(ii) Wage and skill progression services (help with finding a better job and/or obtaining better wages) for up to ~~((twenty-four))~~ twelve months after exiting TANF or SFA.

(iii) Tuition assistance or preemployment training from the community and technical college system;

(iv) Working connections childcare assistance; and/or

(v) WorkFirst support services for up to ~~((twelve))~~ six months after exiting TANF or SFA.

(c) You are a low wage earner (that is, your family income does not exceed one hundred seventy-five percent of the federal poverty level) who has never received TANF or SFA benefits, and are in a community or technical college-approved skill training program. You may qualify for:

(i) Tuition assistance or preemployment training from the community and technical college system; or

(ii) Working connections child care while you are in training or school for up to a total of thirty six months.

(6) What if I lose my job while I am receiving post employment services?

If you now receive or used to receive TANF or SFA, help is available to you for up to four weeks so that you can find another job and continue in your approved post employment.

(a) The employment security department will provide you with reemployment services.

(b) At the same time, your case manager can approve up to four weeks of support services and childcare for you.

WSR 03-14-116
EMERGENCY RULES
STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:39 p.m.]

Date of Adoption: June 20, 2003.

Purpose: To amend State Board of Education policy, WAC 180-33-035.

Citation of Existing Rules Affected by this Order: Amending WAC 180-33-035.

Statutory Authority for Adoption: Chapter 28A.900 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: WAC 180-33-035 limits state assistance for modernization projects to no less than 40% of the ACA. A project fails to qualify for funding and forfeits state assistance when construction costs established at the time of bid are below 40% of the ACA. As a result of the amended language, the State Board of Education will be able to waive the 40% minimum requirement for certain projects that had previously qualified, but may fail to qualify due to the unusually significant increase to the ACA for the July 2003 release.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 01-19-042, filed 9/14/01, effective 10/15/01)

WAC 180-33-035 Minimum project—Forty percent of replacement costs. (1) State assistance in modernization of school facilities shall be limited to projects which may include an entire facility or one or more complete buildings within a facility for which the estimated cost of major structural change is not less than forty percent of the estimated cost of replacement. The estimated cost of major structural change shall not include the estimated capital costs associated with restoring building systems or subsystems due to deterioration as determined in the study and survey to be caused by deferred maintenance. The estimated cost of replacement shall be derived from multiplication of the total square foot area of the facility or facilities proposed for modernization by the area cost allowance for the fiscal year funded as in WAC 180-27-045 set forth.

(2) The state board of education may grant a waiver from subsection (1) of this section in the event of an unanticipated increase in the area cost allowance that might cause prior approved projects expecting state assistance to become disqualified for such assistance.

WSR 03-14-117
EMERGENCY RULES
STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:40 p.m., effective August 19, 2003]

Date of Adoption: June 20, 2003.

Purpose: To amend State Board of Education policy, WAC 180-24-00701, 180-24-215, and 180-24-220.

Citation of Existing Rules Affected by this Order: Amending WAC 180-24-00701, 180-24-215, and 180-24-220.

Statutory Authority for Adoption: Chapter 28A.315 RCW.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Necessary rule adoption as a result of the passage of SB 5437 School District Regional Committee.

EMERGENCY

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 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 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 19, 2003.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 99-24-125, filed 12/1/99, effective 1/1/00)

WAC 180-24-00701 Regional committee decision making criteria. (1) The regional committee shall give consideration to all of the following criteria when reviewing the proposed transfer of territory:

(a) ~~((Annual school performance reports))~~ Student educational opportunities (see RCW 28A.315.205 (4)(a) for full text);

(b) Safety and welfare of pupils (see RCW 28A.315.205 (4)(b) for full text);

(c) History and relationship of the property affected to the students and communities affected (see RCW 28A.315.205 (4)(c) for full text);

(d) Geographic accessibility (see RCW 28A.315.205 (4)(d) for full text);

(e) Disparities in per pupil valuation, economies of operation and transportation costs (see RCW 28A.315.205 (4)(e) for full text); and

(f) Other criteria or considerations as may be established in rule by the state board of education. (RCW 28A.315.015 (2)(e)).

(2) Under RCW 28A.315.195(2) the boundaries of the school districts affected by a proposed change in school district organization shall be contiguous to one another.

(3) Under RCW 28A.315.205 (4)(a), every element of the annual school performance report shall be considered and no one element shall be given undue weight in comparison to any other element.

(4) Under RCW 28A.315.205(4), "geographic accessibility" includes, but is not limited to, consideration of the following factors:

(a) Mountains, hills, valleys, wasteland, and related geographic and man-made features, which either enhance or impede travel.

(b) Rivers, lakes, canals, and other natural or man-made waterways and bodies of water, which either enhance or impede travel.

(c) The extent and nature of roads, highways, ferries, and traffic patterns.

(d) Climatic conditions.

(e) Time required to travel to and from school.

AMENDATORY SECTION (Amending WSR 99-24-125, filed 12/1/99, effective 1/1/00)

WAC 180-24-215 Superintendent of public instruction staff review of regional committee proposals—When. Pursuant to RCW 28A.315.205(5), when a decision of a regional committee (~~(to approve a proposed transfer of territory))~~) is appealed to the state board of education, staff of the office of superintendent of public instruction, prior to the appeal hearing, shall be responsible for:

(1) Collecting from the applicable educational service district superintendent the written record of the approved transfer proposal and providing a copy of the written record to the state board of education;

(2) Reviewing the written record and, at the superintendent's discretion, providing to the state board the staff's judgment as to whether the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner.

AMENDATORY SECTION (Amending WSR 99-24-125, filed 12/1/99, effective 1/1/00)

WAC 180-24-220 Action by state board of education—When. Pursuant to RCW 28A.315.205(5), the state board of education shall act on a proposed transfer of territory only when there is an appeal to the board of a decision of a regional committee (~~(to approve a proposed transfer of territory))~~).

WSR 03-14-121

EMERGENCY RULES

STATE BOARD OF EDUCATION

[Filed June 30, 2003, 4:44 p.m.]

Date of Adoption: June 20, 2003.

Purpose: To amend the rules to establish a list of endorsement-related assignments and allow a district to assign a teacher to an endorsement related area when the district does not have a certified teacher with that endorsement available.

Citation of Existing Rules Affected by this Order: Amending WAC 180-82-105 Assignment of classroom teachers within districts.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This amendment will assist school districts in assigning and reassigning teachers for the 2003-2004 school year during the current budget crisis.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

June 30, 2003

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-038, filed 8/26/02, effective 9/26/02)

WAC 180-82-105 Assignment of classroom teachers within districts. In addition to holding teaching permits or certificates as required by WAC 180-16-220(2), the assignment of classroom teachers in the basic program of education shall comply with the following:

(1) Classroom teachers with standard or unendorsed continuing teacher certificates may be assigned to any grade or subject areas for which certification is required.

(2) Classroom teachers with initial, residency, endorsed continuing, or professional teacher certificates may be assigned only to the specified grades and specified subject areas stated as endorsements upon their respective certificates or permits.

(3) Classroom teachers with initial, residency, endorsed continuing, or professional teacher certificates who have an elementary education endorsement may be assigned to teach any subject in grades K-8.

(4) Any certificated teacher who has completed twenty-four quarter hours (sixteen semester hours) of academic study in a content area that will be offered in grades four through nine may be assigned to that course even if the teacher does not hold an endorsement in that area.

(5) Any certificated teacher may be assigned to a middle school or junior high school block program, which for the purpose of this section shall be defined as the same teacher assigned to teach two or more subject areas to the same group of students, if the teacher has an endorsement in one of the subject areas and has completed or will complete within one year nine quarter hours in each of the other subject areas.

(6) Upon determination by school districts that teachers have the competencies to be effective teachers in alternative settings, individuals with initial, residency, endorsed continuing, or professional teacher certificates who have completed provisional status with a school district under RCW 28A.405.220 may be assigned to teach in alternative schools.

(7) Any certificated teacher may be assigned to courses offered in basic education subject areas not included with the list of endorsements specified in WAC 180-82-202.

(8) Any certificated teacher may be assigned to serve as a substitute classroom teacher at any grade level or in any subject area for a period not to exceed thirty consecutive school days in any one assignment.

(9) Any certificated person holding a limited certificate as specified in WAC 180-79A-230 or a career and technical education certificate as specified in chapter 180-77 WAC may be assigned as per the provisions of such section or chapter.

(10) If a teacher is assigned to provide special education, then the district must also comply with WAC 392-172-200 and 392-172-202.

(11)(a) For the purpose of this section, the term "specified subject areas" shall mean courses or classes with the same subject area title as specified by the classroom teacher's endorsement and courses or classes which the board of directors of the district, using the endorsement-related assignment table published by the state board of education as a nonbinding guideline, determines to substantially include the same subject area as the endorsement—e.g., a classroom teacher with a health endorsement may be assigned to any course, regardless of course title, which substantially includes health as the subject area.

(b) The endorsement-related assignment table published by the state board of education may not be changed without prior state board of education approval. Endorsement-related assigned classroom teachers must be evaluated annually specific to the assignment and achieve a satisfactory rating to continue in the assignment.

(12) Exceptions to the assignment requirements of subsection (1) of this section must comply with WAC 180-82-110.

(13) School district compliance with this section shall be subject to the state staff review process specified in WAC 180-16-195(2).

WSR 03-14-149
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-144—Filed July 2, 2003, 11:12 a.m.]

Date of Adoption: July 1, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Repealing WAC 220-52-05100U; and amending WAC 220-52-051.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to meet allocation, conservation and management agreements. Openings and closures are consistent with these elements. Commercial shrimp trawl closures to protect molting Dungeness crab have been lifted in the areas opened by this rule. A weekly landing limit for spot shrimp is necessary to reduce risk of overharvest, maintain an orderly fishery, provide the ability to enforce state/tribal plan requirements, and to ensure conservation. 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.

July 1, 2003

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-52-05100V Puget Sound shrimp pot and beam trawl fishery—Seasons. Notwithstanding the provisions of WAC 220-52-051, effective immediately until further notice, it is unlawful to fish for shrimp for commercial purposes in Puget Sound except as provided for in this section:

(1) Shrimp pot gear:

(a) Waters of Shrimp Management Areas 1A and 1C, and Crustacean Management Regions 2, 3, 4 and 6, are open to the harvest of all shrimp species, except as provided below:

(i) Waters of Marine Fish-Shellfish Catch and Reporting Areas 23A-S (south) and 23D are closed to the harvest of spot shrimp.

(ii) Waters of Shrimp Management Area 2E are closed to the harvest of all shrimp species other than spot shrimp.

(iii) Waters of Marine Fish-Shellfish Catch and Reporting Areas 23-W (west), 26B-1 and 26C are closed to the harvest of all shrimp species.

(iv) Closures provided for in WAC 220-52-051 (2)(c) remain in effect.

(b) Effective immediately, it is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 600 pounds per week, or to exceed 300 pounds per week from Crustacean Management Regions 1C, 2, 4 and 6, except, any fisher whose weekly shrimp harvest activity is exclusively limited to Marine Fish-Shellfish Catch and Reporting Areas 23C or 29 (or any combination of these two areas), shall not be subject to the weekly spot shrimp trip limit for that week. The spot shrimp trip limit accounting week is Monday through Sunday. It is unlawful to fish for any shrimp while in possession on board the fishing vessel spot shrimp harvested from the previous trip limit accounting week or weeks.

(c) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day. Fishers may move all of their shellfish pot gear from one Marine Fish-Shellfish Management and Catch Reporting Area to another Marine Fish-Shellfish Management and Catch Reporting Area if a harvest report is made before the shellfish pot gear is moved. The harvest activity report must be made consistent with the provisions of WAC 220-52-075 and must also include number of pots being moved to a new area and the Marine Fish-Shellfish Management and Catch Reporting Area that the pots are being moved to.

(d) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Management and Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Management and Catch Reporting Area except shellfish pots may be set in a new fishing area subsequent to making a report as indicated in Section 1(d) above.

(2) Shrimp beam trawl gear:

(a) Crustacean Management Region 3 outside of the shrimp districts: Open immediately, until further notice.

(b) Shrimp Management Area 1B: open immediately, until further notice.

(3) It is unlawful to set or pull shrimp using shellfish pot or shrimp beam trawl gear from one hour after official sunset to one hour before official sunrise.

(4) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-05100U Puget Sound shrimp pot and beam trawl fishery—Seasons. (03-138)

EMERGENCY

WSR 03-14-150
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 03-145—Filed July 2, 2003, 11:13 a.m., effective July 6, 2003, 9:00 p.m.]

Date of Adoption: July 1, 2003.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-32500H; and amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed to ensure an orderly fishery, manage within court-ordered sharing requirements, and to ensure conservation. The state recreational share of spot shrimp has been taken in Marine Area 7. 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: July 6, 2003, 9:00 p.m.

July 1, 2003

Evan Jacoby

for Jeff Koenings

Director

NEW SECTION

WAC 220-56-32500I Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325 and WAC 220-56-310:

1) Effective 9:00 p.m. July 6, 2003, until further notice, it is lawful to fish for or possess shrimp taken for personal use in Marine Area 7 north of a line from Biz Point on Fidalgo Island to Cape St Mary on Lopez Island, then north of a line from Davis Point to Cattle Point on San Juan Island, then north of a line due west from Lime Kiln Point light to the international boundary except:

(a) It is unlawful to possess spot shrimp and all spot shrimp must immediately be returned to the water unharmed.

(b) It is unlawful to set or pull shrimp gear in waters greater than 200 feet deep.

2) Effective immediately, until further notice, it is unlawful to fish for or possess shrimp taken for personal use in all waters of the Discovery Bay and Port Angeles Shrimp Districts, in Marine Area 10, and in Marine Area 7 south of a line from Biz Point on Fidalgo Island to Cape St Mary on Lopez Island, then south of the shores of Lopez Island to Davis Point, then south of a line from Davis Point to Cattle Point on San Juan Island, then south of the shores of San Juan Island to Lime Kiln Point light, then south of a line due west from Lime Kiln Point light to the international boundary.

3) Effective immediately, until further notice, it is lawful to fish for or possess shrimp taken for personal use in all waters of Marine Area 11 except:

(a) It is unlawful to possess spot shrimp and all spot shrimp must immediately be returned to the water unharmed.

(b) It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

4) Effective immediately, the following area shall be defined as a shrimp fishing district: Port Townsend Shrimp District - All waters of Port Townsend bay south and west of a line from Marrowstone Point to Point Hudson (including Kilisut Harbor).

5) Effective immediately, until further notice, it is lawful to fish for or possess shrimp taken for personal use in all waters of Marine Areas 8-1, 8-2 and 9 except:

(a) It is unlawful to possess spot shrimp and all spot shrimp must immediately be returned to the water unharmed.

(b) Closed Mondays through Wednesdays.

(c) It is unlawful to set or pull shrimp gear in waters greater than 150 feet deep.

(d) All waters of the Port Townsend Shrimp District are closed except those waters south of a line from Kala Point to Walan Point.

REPEALER

The following section of the Washington Administrative Code is repealed effective 9:00 pm. July 6, 2003:

WAC 220-56-32500H Shrimp—Areas and seasons
(03-133)

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



WSR 03-14-001
INTERPRETIVE OR POLICY STATEMENT
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed June 18, 2003, 1:46 p.m.]

800-848-5429, fax (360) 586-9727, e-mail mailto: sullivan@ds.shs.wa.gov.

June 16, 2003

E. A. Myers, Manager
 Rules and Publications Section

NOTICE OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Docket No. UT-030394.

Subject: Petition for clarification or waiver of WAC 480-120-450 (2)(e), concerning resolution of E911 data base errors reported by PSAPs to LECs, as adopted on December 16, 2002, in Docket No. UT-990146 and effective July 1, 2003.

Effective Date: June 13, 2003.

Document Description: The Washington Utilities and Transportation Commission clarifies that subsection (2)(e) of WAC 480-120-450 requires LECs to resolve reports of data base errors within five working days. That obligation falls on LECs in their role as service providers. That subsection does not impose those obligations on LECs that administer an E911 data base, but that are not the service provider at the location where an error is reported.

To receive a copy of the interpretive statement, contact the Commission Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, phone (360) 664-1160, fax (360) 586-1150, e-mail records@wutc.wa.gov, or go to the commission's website <http://wutc.wa.gov> (click on search, click on Docket Number, enter docket number "030394," click on "Qwest Corporation," click on "Orders," and click on "6/13/03").

C. Robert Wallace
 for Carole J. Washburn
 Secretary

WSR 03-14-003

INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed June 18, 2003, 3:56 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Billing Instructions.

Subject: Births in birthing centers.

Effective Date: July 1, 2003.

Document Description: These are billing instructions for midwife providers to use when billing for medical assistance eligible clients. Included in this document are definitions, updated fee schedule, general program policies, and claim form instructions.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on Billing Instructions), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullivan@ds.shs.wa.gov.

June 16, 2003

E. A. Myers, Manager
 Rules and Publications Section

WSR 03-14-002

INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed June 18, 2003, 3:56 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Billing Instructions.

Subject: Planned home births.

Effective Date: July 1, 2003.

Document Description: These are billing instructions for midwife providers to use when billing for medical assistance eligible clients. Included in this document are definitions, updated fee schedule, general program policies, and claim form instructions.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on Billing Instructions), TDD 1-

WSR 03-14-004

INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed June 18, 2003, 3:56 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-21 MAA.

Subject: Hearing aids: Fee schedule updates.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the maximum allowable fees for hearing aids will remain at their current levels.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/>

publicationsfees.htm (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 16, 2003

E. A. Myers, Manager
Rules and Publications Section

WSR 03-14-005

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed June 18, 2003, 3:56 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-27 MAA.

Subject: Chemical dependency treatment: Fee schedule update.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the maximum allowable fees for the Chemical Dependency Treatment program will remain at their current levels.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 16, 2003

E. A. Myers, Manager
Rules and Publications Section

WSR 03-14-006

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed June 18, 2003, 3:57 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-28 MAA.

Subject: Chronic pain management: Discontinuation of state unique procedure codes.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the Medical Assistance Administration (MAA) will discontinue the state-unique procedure codes for chronic pain management.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordina-

tor, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 16, 2003

E. A. Myers, Manager
Rules and Publications Section

WSR 03-14-007

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed June 18, 2003, 3:57 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-29 MAA.

Subject: EPSDT: Fee schedule changes and discontinuation of state unique procedure codes.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the Medical Assistance Administration (MAA) will:

- Implement the updated MPFSDB Year 2003 RVUs;
- Implement the updated MCLFS;
- Implement the Year 2003 additions of CPT™ codes;
- Implement the additions to HCPCS Level II codes; AND
- **Discontinue** all state-unique procedure codes previously used in the EPSDT Program Billing Instructions.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 16, 2003

E. A. Myers, Manager
Rules and Publications Section

WSR 03-14-008

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed June 18, 2003, 3:57 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-30 MAA.

Subject: Midwives: Fee schedule changes and discontinuation of state unique procedure codes.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the Medical Assistance Administration (MAA) will:

- Implement the updated MPFSDB Year 2003 RVUs;
- Implement the updated MCLFS;
- Implement the Year 2003 additions of CPT™ codes;
- Implement the additions to HCPCS Level II codes; AND
- **Discontinue** all state-unique procedure codes previously used in the Births in Birthing Centers Billing Instructions and Planned Home Births Billing Instructions.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 16, 2003

E. A. Myers, Manager
Rules and Publications Section

WSR 03-14-009

INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed June 18, 2003, 3:57 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-31 MAA.

Subject: Maternity support services and maternity case management: Fee schedule updates.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the maximum allowable fees for the maternity support services (MSS) and maternity case management (MCM) programs will remain at their current levels.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda,"

"Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 16, 2003

E. A. Myers, Manager
Rules and Publications Section

WSR 03-14-010

INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed June 18, 2003, 3:58 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-32 MAA.

Subject: Vision care program: Fee schedule updates.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the Medical Assistance Administration (MAA) will implement:

- The updated MPFSDB Year 2003 RVUs;
- The Year 2003 additions of CPT™ codes; and
- Changes to HCPCS Level II codes.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 16, 2003

E. A. Myers, Manager
Rules and Publications Section

WSR 03-14-011

INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed June 18, 2003, 3:58 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-33 MAA.

Subject: Psychologists: Fee schedule changes and discontinuation of state unique procedure codes.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the Medical Assistance Administration (MAA) will:

MISC.

- Implement the updated Medicare Physician Fee Schedule Data Base (MPFSDB) Year 2003 relative value units (RVUs); and
- **Discontinue** all state unique procedure codes previously used in MAA's Psychologist Billing Instructions.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 16, 2003
 E. A. Myers, Manager
 Rules and Publications Section

WSR 03-14-017
POLICY STATEMENT
DEPARTMENT OF HEALTH

[Filed June 19, 2003, 3:47 p.m.]

NOTICE OF ADOPTION OF A POLICY STATEMENT

Title of Policy: Decision Making Criteria for License Applications With Criminal Convictions.

Issuing Entity: Department of Health, Nursing Care Quality Assurance Commission.

Subject Matter: This policy statement establishes the criteria for issuing or denying credentials to qualified applicants with felony or misdemeanor conviction.

Effective Date: May 16, 2003.

Contact Person: Pamela Lovinger, Acting Executive Director, Health Professions Quality Assurance, Department of Health, P.O. Box 47860, Olympia, WA 98504-7860, (360) 236-4984.

WSR 03-14-025
NOTICE OF PUBLIC MEETINGS
WESTERN WASHINGTON UNIVERSITY

[Memorandum—Filed June 18, 2003,]

Following is a revised 2003 meeting schedule for the Western Washington University board of trustees.

At the June 13, 2003, board of trustees meeting the board moved and approved that the date of December 12, 2003, be established for the December 2003 board meeting and that the date of December 5, 2002, be released.

Western Washington University
Board of Trustees
2003 Meeting Schedule

February 7, 2003
 April 11, 2003

June 13, 2003
 August 1, 2003
 October 3, 2003
 December 12, 2003

If you have any questions, please contact Suzanne Baker at (360) 650-3117.

WSR 03-14-029
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—June 23, 2003]

BOARD OF TRUSTEES
June 30, 2003

Executive Session at 12:00 p.m. (PUB 261)
Open Public Meeting at 1:00 p.m. (PUB 263-5-7)
Executive Session at 4:00 p.m. (PUB 261)

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling the president's office, (509) 359-6598.

WSR 03-14-030
NOTICE OF PUBLIC MEETINGS
CENTRAL WASHINGTON UNIVERSITY
 [Memorandum—June 18, 2003]

Regular meetings of the Central Washington University board of trustees will be held in Barge Hall, Room 412, on the Central Washington University Ellensburg campus, except where noted, at 1:00 p.m. on the following dates:

October 9, 2003 (Campus Retreat with Faculty)
 October 10, 2003
 December 5, 2003
 February 13, 2004
 March 12, 2004 (CWU SeaTac Center)
 May 7, 2004
 June 11, 2004
 August 5-6, 2004 (Board Retreat)

WSR 03-14-040
NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE
 [Memorandum—June 24, 2003]

NOTIFICATION OF SPECIAL MEETING

The board of trustees of Everett Community College will hold a special session on July 16, 2003, 5:00 p.m., in the

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board room on the Everett Community College Campus in Everett, Washington. Call (425) 388-9572 for information.

WSR 03-14-045
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE

[Filed June 24, 2003, 1:50 p.m.]

ADOPTION OF INTERPRETIVE STATEMENT

Excise Tax Advisory 2002.16.179—Low-density light and power utility deduction

This announcement of the adoption of this interpretive statement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has issued a revised Excise Tax Advisory 2002 (Low-density light and power utility deduction). This advisory explains the public utility tax deduction provided by RCW 82.16.053 to qualifying power and light businesses.

RCW 82.16.053 requires that the department determine the state average electric power rate each year and inform taxpayers of this rate. This rate is used by the power and light business to compute the amount of the deduction. This document updates the information to provide the rate to be used for the period of July 2003 through June 2004.

A copy of this advisory is available via the Internet at http://dor.wa.gov/content/rules_laws/eta/eta.htm. Alternatively, a request for a copy of this advisory may be directed to Roseanna Hodson, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6119, fax (360) 664-0693.

Alan R. Lynn
 Rules Coordinator

WSR 03-14-054
NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
 (Public Employees Benefits Board)

[Memorandum—June 24, 2003]

Following is the revised 2003 Public Employees Benefits Board (PEBB) meeting information.

2003 Meeting Schedule

All meetings are held on Tuesdays and begin at 1:30 p.m. (unless otherwise noted).

1.	April 22, 2003 1:30 - 4:30 p.m. Location: To Be Determined
2.	July 29, 2003 1:30 - 4:30 p.m. Location: To Be Determined

3.	August 5, 2003 1:30 - 4:30 p.m. Location: Attorney General's Office RoweSix 4224 6th Avenue S.E. Building #1 Olympia, WA
4.	August 12, 2003 1:30 - 4:30 p.m. Location: Attorney General's Office RoweSix 4224 6th Avenue S.E. Building #1 Olympia, WA
5.	October 21, 2003 (Planning Session Retreat) 8:30 a.m. - 3:30 p.m. Location: To Be Determined
6.	November 25, 2003 (TELEPHONE) 1:30 - 4:30 p.m.

If you are a person with a disability and need a special accommodation, please contact Theresa Rush at (360) 923-2811.

WSR 03-14-055
NOTICE OF PUBLIC MEETINGS
WASHINGTON SCHOOL
FOR THE DEAF

[Memorandum—June 20, 2003]

The Washington School for the Deaf board of trustees' July (July 2, 2003) [meeting] has been cancelled.

WSR 03-14-056
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed June 25, 2003, 4:21 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-16 MAA.
 Subject: Psychiatric indigent inpatient (PII) program.
 Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: Effective for claims with dates of service on and after July 1, 2003, the Mental Health Division will implement the psychiatric indigent inpatient (PII) program to ensure eligible clients receive continued voluntary inpatient hospital services. This new program was created as a result of the medically indigent program being discontinued.

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To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

June 23, 2003
E. A. Myers, Manager
Rules and Publications Section

WSR 03-14-070
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE

[Filed June 26, 2003, 3:33 p.m.]

ISSUANCE/CANCELLATION OF INTERPRETIVE STATEMENTS

This announcement of the issuance/cancellation of these interpretive statements is being published in the Washington State Register pursuant to the requirements of RCW 34.05.-230(4).

The Department of Revenue has issued the following Excise Tax Advisory: **ETA 2014.08.193 Sales to Nonresidents of Jurisdictions Imposing a Sales Tax of Less than Three Percent.** RCW 82.08.0273 provides a retail sales tax exemption for sales of tangible personal property to certain nonresidents of Washington. This document identifies the states, possessions, and provinces of Canada whose residents are eligible for this exemption. It provides examples of sales that are and are not eligible. This document also explains the seller's responsibility to examine proof of nonresidency and document the tax-exempt nature of a sale.

The Department of Revenue has cancelled the following Excise Tax Advisory: **ETA 316.08.193 Sales to Nonresidents.** This document is no longer needed as the subject matter is addressed in ETA 2014.

Copies of these documents are available via the internet at http://dor.wa.gov/content/rules_laws/eta/eta.htm or a request for copies may be directed to Roseanna Hodson, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6119, fax (360) 664-0693.

Alan R. Lynn
Rules Coordinator

WSR 03-14-071
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE

[Filed June 26, 2003, 3:34 p.m.]

ISSUANCE/CANCELLATION OF INTERPRETIVE STATEMENTS

This announcement of the issuance/cancellation of these interpretive statements is being published in the Washington

State Register pursuant to the requirements of RCW 34.05.-230(4).

The Department of Revenue has issued the following Property Tax Advisory: **Property Tax Advisory 11.0.2003 (Application of the Soldiers' and Sailors' Relief Act of 1940 to Property Tax Administration).** This advisory explains the relief available to active duty military personnel and their families. Topics of the advisory include:

1. Relief from foreclosure or sale of a service member's property;
2. Relief from some penalties and interest on delinquent property tax obligations;
3. Temporary relief from any tax or assessment through court proceedings;
4. Relief for personal property taxes of nonresident military personnel;
5. Taxation of mobile homes owned by nonresident military personnel.

The Department of Revenue has cancelled the following Property Tax Bulletin: **Property Tax Bulletin 91-15 (Application of the Soldiers' and Sailors' Civil Relief Act of 1940 to Property Tax Administration).** This bulletin is no longer needed as the subject matter is addressed in PTA 11.

Copies of these documents are available via the internet at http://dor.wa.gov/content/Property_Tax/prop_rnls.asp or a request for copies may be directed to Velinda Brown, Property Tax Division, P.O. Box 47471, Olympia, WA 98504-7471, phone (360) 570-5865, fax (360) 586-7602.

Alan R. Lynn
Rules Coordinator

WSR 03-14-082
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed June 27, 2003, 2:07 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-25 MAA.

Subject: Adult day health: Fee schedule updates.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003,** the maximum allowable fees for adult day health services will remain at their current levels.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda,"

"Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 23, 2003
 E. A. Myers, Manager
 Rules and Publications Section

Monday, February 9, 2004
 Monday, March 8, 2004
 Monday, April 12, 2004

MV Board Room
 MV Board Room
Whidbey Island Campus
 Hayes Hall 137
 1900 S.E. Pioneer Way
 Oak Harbor
 MV Board Room
 San Juan Center
 221 Weber Way
 Friday Harbor

Monday, May 10, 2004
 Thursday, June 10, 2004 - 1:30 p.m.

WSR 03-14-083
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed June 27, 2003, 2:08 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-23 MAA.
 Subject: Private duty nursing: Fee schedule updates.
 Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the maximum allowable fees for private duty nursing services will remain at their current levels.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 25, 2003
 E. A. Myers, Manager
 Rules and Publications Section

WSR 03-14-087
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE

[Memorandum—June 24, 2003]

At the June 12, 2003, board of trustees meeting, the following schedule was approved by the trustees for the July 2003-June 2004 meeting dates. Unless otherwise noted, all meetings will be held at the Mount Vernon campus and will begin at 5:00 p.m.

July 2003-June 2004 Board Meeting Dates	Location
Monday, July 14, 2003	South Whidbey Center 11042 SR 525, Suite 138 Clinton
Monday, September 8, 2003	MV Board Room
Monday, October 13, 2003	MV Board Room
Monday, November 10, 2003	MV Board Room
Monday, December 8, 2003	MV Board Room
Monday, January 12, 2004	MV Board Room

WSR 03-14-088
NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE

[Memorandum—June 26, 2003]

Following is the listing of board meeting dates for the Everett Community College board of trustees. If you need additional information, please call or e-mail Juli Boyington at (425) 388-9572, jboyingt@evcc.ctc.edu.

Everett Community College Board of Trustees
 Board Meeting Schedule for 2003 - 2004
 The meetings will begin at 5:00 p.m.

- July 16, 2003
- August 13, 2003
- September 10, 2003
- October 8, 2003
- November 12, 2003
- December 10, 2003
- * January 14, 2004
- * February 11, 2004
- * March 10, 2004
- April 14, 2004
- May 12, 2004
- June 9, 2004

* dates may change due to legislative session and WACTC meetings

WSR 03-14-089
INTERPRETIVE STATEMENT
DEPARTMENT OF REVENUE

[Filed June 27, 2003, 2:45 p.m.]

Issuance of Interpretive Statement

This announcement of the issuance of this interpretive statement is published in the Washington State Register pursuant to the requirements of RCW 34.05.230.

The Department of Revenue has issued the following Interim Audit Guideline (IAG). This guideline provides guidance regarding the taxability of reagents, controls, calibrators, and other diagnostic substances.

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IAG 05.03 Taxability of Reagents, Controls, and Calibrators: A copy of this guideline is available via the internet at http://dor.wa.gov/content/rules_laws/iag/iag.htm. Alternatively, a request for a copy of this guideline may be directed to Roseanna Hodson, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 570-6119, fax (360) 664-0692.

Alan R. Lynn
Rules Coordinator

making action, either a public meeting, hearing, or adoption, by January 31, 2004. Rules may be added or deleted from the work schedule as a result of resource allocation, legislative action, court decisions, or taxpayer request.

We have a website that includes this list at http://www.dor.wa.gov/contentrules_laws/laws_RulesAdmin.asp.

If you would like to receive future copies of this list, please send a request to Roseanna Hodson, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504.

Any person currently on the excise tax rules maintenance list or property tax rules list will automatically receive a copy of the Rule Development Agenda.

WSR 03-14-090

AGENDA

DEPARTMENT OF REVENUE

[Filed June 27, 2003, 2:46 p.m.]

The Department of Revenue's rule development agenda shows those rules for which we anticipate some formal rule-

RULES DEVELOPMENT AGENDA

DEPARTMENT OF REVENUE

Activity planned by January 31, 2004

Rule Number	Last Revised	Subject	Explanation	Assigned To	Status
458-10-010	1997	Accreditation of real property appraisers	Update per rule review.	Mark Mullin	CR-101 public meeting anticipated.
458-12-050	1968	Listing of personal property	Update per rule review. Anticipate combining information into one or two rules.	Mark Mullin	CR-101 public meeting anticipated.
458-12-095	1968				
458-12-100	1982				
458-12-105	1968				
458-12-110	1968				
458-12-060	1968	Listing of personal property	Update per rule review and incorporate provisions of chapters 185 and 187, Laws of 2001 and chapter 302, Laws of 2003. Anticipate combining information into one rule.	Mark Mullin	CR-102 public hearing anticipated.
458-12-065	1968				
458-12-070	1968				
458-12-075	1968				
458-12-080	1969				
458-14-001	1995	Board of equalization	To incorporate chapters 185 and 187, Laws of 2001, and chapter 54, Laws of 1998.	Kim Qually	CR-101 public meeting anticipated.
458-14-015	1995				
458-14-025	1995				
458-14-046	1995				
458-14-056	1995				
458-14-066	1995				
458-14-076	1995				
458-14-105	1995				
458-14-116	1995				
458-14-127	1995				
458-14-170	1995				
458-16-180	1994	Cemeteries	Update per rule review.	Kim Qually	CR-101 public meeting anticipated.

MISC.

Rule Number	Last Revised	Subject	Explanation	Assigned To	Status
458-16A-110	2003	Senior citizen/disabled person exemption	Recognize federal law changes.	Ed Ratcliffe	CR-101 public meeting anticipated.
458-16A-115	2003	Senior citizen/disabled person exemption	Recognize federal law changes.	Ed Ratcliffe	CR-101 public meeting anticipated.
458-19-045	2002	Levy limit—Removal of limit	Incorporate provisions of chapter 24, 2003 Laws of 2003 1st sp. s.	Kim Qually	Candidate for expedited process.
458-18-220	2001	Rate of interest	Annual update.	Kim Qually	Must be completed by January 1st.
458-20-102	1994	Resale certificates	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003).	Pat Moses	Candidate for expedited process.
458-20-110	1991	Freight and delivery charges	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003).	Sue Goldstein	CR-101 public meeting anticipated.
458-20-119	1994	Sales of meals	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003), update per rule review.	Gil Brewer	CR-101 public meeting anticipated.
458-20-124	1993	Restaurants and similar establishments	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003), update per rule review.	Gil Brewer	CR-101 public meeting anticipated.
458-20-135	2000	Extracting	To incorporate chapter 118, Laws of 2001 (SHB 1339).	Pat Moses	CR-102 public hearing held, adoption anticipated.
458-20-141	1983	Duplicating industry and mailing bureaus	To incorporate chapter 367, Laws of 2002 and update per rule review.	JoAnne Gordon	CR-102 public hearing anticipated.
458-20-168	1994	Hospitals and medical care facilities	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003), update per rule review.	Mark Mullin	CR-101 public meeting anticipated.
458-20-173	1983	Installing, cleaning, repairing tangible personal property	Incorporate provisions of chapter 367, Laws of 2002, and the "streamlined bill" (chapter 168, Laws of 2003).	JoAnne Gordon	CR-101 public meeting anticipated.
458-20-177	1983	Sales of vehicles to nonresidents	Update per rule review.	Gil Brewer	CR-102 public hearing anticipated.

MISC.

Rule Number	Last Revised	Subject	Explanation	Assigned To	Status
458-20-178	1986	Use tax	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003), update per rule review.	JoAnne Gordon	CR-102 public hearing anticipated.
458-20-17801	New	Use tax exemptions	Incorporate and update exemption information now in WAC 458-20-178.	JoAnne Gordon	CR-102 public hearing anticipated.
458-20-17803	New	Promotional materials	To incorporate provisions of chapter 367, Laws of 2002.	JoAnne Gordon	CR-102 public hearing anticipated.
458-20-186	1994	Tax on cigarettes	Incorporate provisions of chapter 114, Laws of 2003.	Margaret Partlow	CR-101 public meeting anticipated.
458-20-18601	1995	Cigarette vendor licenses	Incorporate provisions of chapter 114, Laws of 2003.	Margaret Partlow	CR-101 public meeting anticipated.
458-20-18801	1992	Prescription drugs, medical devices	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003).	Cindy Evans	CR-101 public meeting anticipated.
458-20-193 458-20-193C	1991 1986	Inbound and outbound interstate sales of tangible personal property imports and exports	Update per rule review. May consolidate information into one rule.	Alan R. Lynn	CR-101 public meeting anticipated.
458-20-196	1983	Bad debts	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003).	Nathan Schreiner	CR-101 public meeting anticipated.
458-20-211	1996	Leases/rental of tangible personal property	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003), update per rule review.	JoAnne Gordon	CR-101 public meeting anticipated.
458-20-216	1999	Successorship	Incorporate provisions of chapter 13, Laws of 2003 1st sp. s.	Sue Goldstein	Candidate for expedited adoption process.
458-20-228	2001	Returns, penalties, and interest	Incorporate provisions of chapter 13, Laws of 2003 1st sp. s.	Pat Moses	CR-101 public meeting anticipated.
458-20-229	1993	Refunds	Incorporate provisions of chapter 73, Laws of 2003.	Pat Moses	CR-101 public meeting anticipated.
458-20-24001 458-20-24001A	2001 2001	Distressed area deferrals	Update per rule review.	Cindy Evans	CR-101 public meeting anticipated.
458-20-243	1983	Litter tax	Update per rule review and incorporate chapter 120, Laws of 2003.	Pat Moses	CR-101 public meeting anticipated.

MISC.

Rule Number	Last Revised	Subject	Explanation	Assigned To	Status
458-20-244	1988	Sales of food	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003), update per rule review.	Cindy Evans	CR-101 public meeting anticipated.
458-20-245	1983	Telephone service	Incorporate provisions of the "streamlined bill" (chapter 168, Laws of 2003), update per rule review.	Gil Brewer	CR-101 public meeting anticipated.
458-20-251	1986	Sewerage collection	Update per rule review.	Gil Brewer	CR-102 public meeting scheduled July 23, 2003.
458-20-252	1989	Hazardous substance tax	Update per rule review.	Anne Solwick	2nd CR-101 public meeting anticipated.
458-20-263	1999	Exemption for alternative power sources	Update per rule review.	Gil Brewer	CR-101 public meeting anticipated.
458-30-262	2001	Farm and agricultural land values	Annual update.	Kim Qually	Must be completed by January 1st.
458-30-590	2001	Rate of inflation	Annual update.	Kim Qually	Must be completed by January 1st.
458-40-540	2001	Forest land values	Annual update.	Ed Ratcliffe	Must be completed by January 1st.
458-40-660	2001	Timber/forest tax stumpage values	Required semi-annually.	Ed Ratcliffe	Must be completed before July 1st and January 1st each year.
458-40-628	2000	Taxable stumpage value—Public timber	Incorporate provisions of chapter 313, Laws of 2003.	Ed Ratcliffe	CR-101 public meeting anticipated.
458-40-680	2000	Timber excise tax—Scaling and grading methods	Update per rule review.	Ed Ratcliffe	CR-102 public hearing anticipated.
458-61-100	1994	Real estate excise tax—Refunds	Update per rule review.	Ed Ratcliffe	CR-102 public hearing held 6/25/03, adoption anticipated.

Alan R. Lynn
Rules Coordinator

WSR 03-14-094

NOTICE OF PUBLIC MEETINGS EASTERN WASHINGTON UNIVERSITY

[Memorandum—June 30, 2003]

The board of trustees of Eastern Washington University will hold its next meeting on Monday, June 30, 2003, in the Pence Union Building, Rooms 263-5-7, on the Cheney Campus. This meeting will begin with a one-hour executive session to (1) evaluate the qualifications of an applicant for public employment or to review the performance of a public employee, and (2) discuss with legal counsel representing the

agency matters relating to agency enforcement actions, litigation or potential litigation. The open public meeting will begin at 1:00 p.m. with action items to include a hearing on codifying Eastern's alcohol policy into a WAC, approval of the May minutes, and approval of the Fiscal Year 2003-04 budget. The open public meeting will be followed by a second executive session from approximately 4:00 - 6:00 p.m. to review the performance of a public employee.

The board will hold its annual retreat at Mukogawa Fort Wright Institute, North 4000 Randolph Road, on Tuesday and Wednesday, July 1 and 2. On July 1 the retreat will begin

with an executive session from 8:00 - 10:00 a.m. to review the performance of a public employee. Following the executive session the board will discuss the topics of diversity and a capital campaign. The first day of the retreat will end at 5:00 p.m., with a dinner following. On Tuesday, beginning at 8:00 a.m., the board will discuss strategic governance. No final action will be taken on these three topics. The second day will include an open session from 12:00 - 12:30 p.m. for possible action regarding the performance of a public employee, and will conclude with a luncheon from 12:30 - 1:30.

- July 15, 2003*
- August 8 and 9, 2003 Board Retreat**
- September 9, 2003*
- October 21, 2003*
- November 18, 2003*
- December 16, 2003*

* No change. All regular meeting dates are on a Tuesday. Meetings begin at 2:00 p.m. and are held within the Convention Center. The regular board meetings are open to the public.

** The August board retreat will take place August 8 and 9 at the Willows Lodge, 14580 N.E. 145th Street, Woodinville, WA 98072. No final action will be taken at this meeting. The retreat is open to the public.

**WSR 03-14-125
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER**

[Memorandum—June 30, 2003]

Revised Board Meeting Schedule - 2003

The board of directors of the Washington State Convention and Trade Center has revised the board meeting schedule through end-of-calendar-year 2003 as follows:

The Friday program, August 8, will begin with meetings 8:30 a.m. through noon. Following a lunch break, meetings will continue 1:00 p.m. through 5:00 p.m. The agenda for Friday will include expert speakers in the hospitality industry and a discussion of operating strategies.

The Saturday program, August 9, will consist primarily of a work session beginning at 8:30 a.m. and concluding at noon. Board members will review the WSCTC corporate mission statement and establish future operating goals.

**WSR 03-14-128
AGENDA
DEPARTMENT OF ECOLOGY**

[Filed July 1, 2003, 10:10 a.m.]

Pursuant to RCW 34.05.314, following is the Department of Ecology's rule agenda for July 2003 - December 2003. If you have any questions please contact Jerry Thielen at (360) 407-6998 or e-mail jthi461@ecy.wa.gov.

Department of Ecology
Rule Agenda
July 2003

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/ Sections to Amend
Administrative						
173-06 AO #02-18 1/03 CR-105 filed	Delegation of powers	Chuck Carelli (360) 407-6537 ccar461@ecy.wa.gov	N/A	Feb. 2003	Apr. 2003	To amend chapter 173-06 WAC so it will conform and be consistent with chapter 43.21A RCW while also providing an administratively manageable framework for delegation of authority from the director to employees of the department. Both the statute and the rule address the establishment of appropriate signature delegation processes in the Department of Ecology. The rule amendments

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WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/ Sections to Amend
						will update chapter 173-06 120 WAC and provide clear guidance for signature delegation in ecology.
Air Quality						
173-400, 173-405, 173-410, 173-433, 173-434 AO #99-07 7/96	Emissions standards for solid waste incinerators; General regulation for air pollution sources; Kraft pulping mills; Sulfite pulping mills; Solid fuel burning device standards	Tom Todd (360) 407-7528 ttod461@ecy.wa.gov	Mar. 1999	Dec. 2003	Jun. 2004	Hog fuel boiler RACT; define terms related to wood derived fuels; reorganize state incinerator rule.
173-434 AO #02-05 3/02	Solid waste incinerator facilities	Steve Cross (360) 407-6875 stcr461@ecy.wa.gov	Mar. 2002	Jun. 2003	Aug. 2003	The purpose of the proposed rule change is to incorporate new federal language; add new terms to the definition section; change existing definitions; and provide alternate means of compliance demonstration with WAC 173-434-130(3) and 173-434-160(1).
Shorelands and Environmental Assistance						
173-26 AO #03-02 1/03	Shoreline management	Peter Skowlund (360) 407- 6522 psko461@ecy.wa.gov	Jan. 2003	Jun. 2003	Dec. 2003	New Shoreline Management Act (SMA) guidelines for development/ amendment of master programs, executing a settlement agreement amongst litigating parties that implements statutory requirements to update the guidelines consistent with SMA policy, replacing invalidated Parts 3 and 4 of chapter 173-26 WAC; among other things establishing planning and regulatory standards for future shoreline development and uses, requirements for protection and restoration of shoreline ecological functions, guidance on the limitations of regulatory authority and shorelines and growth management act integration.
197-11 AO #02-13 8/02	SEPA rules	Barbara Ritchie, (360) 407-6922, brit461@ecy.wa.gov	Sept. 2002	Jan. 2003	Aug. 2003	The proposed amendment of the State Environmental Policy Act (SEPA) rules is in response to a recent law suit challenging ecology's authority to adopt criteria that would override exemptions established by the legisla-

MISC.

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/ Sections to Amend
						ture. The legislature exempted Class I, II, and III forest practices from SEPA environmental review. The court of appeals has ruled that because the legislative exemption is included in Part Nine of the SEPA Rules, Class I, II, and III forest practices are subject to the limitations in WAC 197-11-305 and may require SEPA review. Ecology has determined that we do not have authority to override legislative exemptions and that the SEPA rules need to be revised to clarify that legislatively exempt actions do not require SEPA review.
Solid Waste and Financial Assistance						
173-314 AO #03-04 2/03	Waste tire carrier and storage site licenses	Jerry Thielen (360) 407-7551 jthi461@ecy.wa.gov	N/A	Feb. 2003	Apr. 2003	Update approaches to nonmunicipal solid waste management. Respond to state legislation aimed at removing impediments to recycling.
Spill Prevention, Preparedness and Response						
317-10, 173-181 AO #00-03 7/99	Oil spill contingency plans and response contractor standards	Linda Pilkey-Jarvis (360) 407-7447 jpil461@ecy.wa.gov	Feb. 2000	Jul. 2004	Nov. 2004	Update plan requirements, mandate incident command systems, incorporate planning standards, and update primary response contractor standards.
173-183 AO #03-03 2/03	Preassessment screening and oil spill compensation schedule regulations	Jerry Thielen	N/A	Feb. 2003	May 2003	These amendments are being made to WAC 173-183-820, 173-183-830, 173-183-850, and 173-183-860 to correct a cross reference in the rule. These sections will be amended to reference WAC 173-183-340 instead of WAC 173-183-360. No other amendments will be made to this chapter during this rule making.
Hazardous Waste and Toxic Reduction						
173-303-071 AO #02-03 1/02	Hazardous waste regulation: Excluded categories of waste	Chipper Hervieux (360) 407-6756 pher461@ecy.wa.gov	Feb. 2002	5/2/2002 Supplemental CR-102 9/17/02	Mar. 2003	Rule to exclude wastes that are regulated as state only dangerous waste; that is, they are not also regulated under federal hazardous waste regulations.

MISC.

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/ Sections to Amend
Water Quality						
173-201A AO #98-20 7/98	Surface water quality standards for the state of Washington	Susan Braley (360) 407-6414 sbra461@ecy.wa.gov	2/16/1999 Withdrawal of previous CR-101 (outdated information) Second CR-101: 9/18/02	Dec 2002 Supplemental CR-102 filed to correct a typo Feb. 2003	Jul. 2003	A. Develop regulatory language to guide the implementation of a water quality antidegradation policy. This would focus on protecting water quality standards, implementing technology-based pollution control requirements, and ensuring degradation that is allowed is in the overriding public interest. It would also include provisions to set aside waters constituting an outstanding national resource from all degradation. B. Look at the way beneficial uses are assigned for protection to waterbodies under the water quality standards.
173-98 AO #02-15 10/02	Uses and limitations of the water pollution control state revolving fund	Dan Filip (360) 407-6509 dfil461@ecy.wa.gov	Nov. 2002	Jan. 2007	Jun. 2007	The Washington State Department of Ecology is initiating a "pilot rule-making process" to propose to amend chapter 173-98 WAC, Uses and limitations of the water
						pollution control revolving fund, to allow public bodies to use the "design/build" concept for completion of wastewater facilities. The concept allows for a contract between local public bodies and firms to be awarded for the design and construction of portions of the facility largely independent of other design and construction efforts elsewhere at the facility. The scope of the pilot rule-making process will be limited to new design/build (D/B) provisions.
173-218, 173-216, 173-226 AO #01-10 5/01	Underground injection control program	Mary Shaleen-Hansen (360) 407-6143 maha461@ecy.wa.gov	Dec. 2001	Jan. 2004	Jun. 2004	The rule amendments will 1. bring it current with new federal rule changes 2. create consistency between the rules that govern UIC wells, and 3. clarify the language of the rule.

MISC.

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/ Sections to Amend
Water Resources						
173-563 and 173-531A AO #01-05 7/01	Columbia River main stem and John Day-McNary pools	Gerry O'Keefe (360) 407-6640 goke461@ecy.wa.gov	Oct. 2002	Nov. 2003	May 2004	Amend and/or partial repeal of rules to adopt a rule that governs an integrated state water management program for the river's water resources.
173-503 AO #03-05 4/03	Instream resources protection program - Lower and Upper Skagit water resources inventory area (WRIA 3 and 4).	Dan Swenson (425) 649-7270 dswe461@ecy.wa.gov	4/25/03 Second CR-101 filed Jun. 2003	Aug. 2003	Nov. 2003	This rule making will amend chapter 173-503 WAC Skagit River instream flow rule. As a result of a interim memorandum of agreement recently signed by the Department of Ecology, City of Anacortes, PUD No. 1 of Skagit County, Skagit County, the Sauk-Suiattle Indian Tribe, the Upper Skagit Indian Tribe and the Swinomish Indian Tribal Community, ecology has agreed to initiate and conduct, and the other parties agree to support, rule-making to amend chapter 173-503 WAC solely for the purpose of allowing exempt wells to be used in the Upper Skagit Basin when mitigation is provided under anecology approved mitigation plan.
173-505 AO #02-17 11/02	Instream resources protection program Stillaguamish River basin - WRIA 5	Steve Hirschey (425) 649-7066 shir461@ecy.wa.gov and Kathleen Ensenat (360) 407-6780 kspa461@ecy.wa.gov	Nov. 2002	Feb. 2004	Jul. 2004	The Washington State Department of Ecology's (ecology) water resources program (program) is proposing to develop an instream resource protection program (IRPP) setting instream flows for certain streams and river segments and, in some cases, stream closures within the Stillaguamish River Basin.

Items in bold have been filed with the Office of the Code Reviser.

Jerry Thielen
Rules Coordinator

WSR 03-14-130
AGENDA
DEPARTMENT OF
NATURAL RESOURCES
[Filed July 1, 2003, 3:16 p.m.]

ment of Natural Resources' rule development agenda for July 2003 - December 2003.

Please call Jamey Taylor at (360) 902-1177 or e-mail at jamey.taylor@wa.dnr.gov if you have any questions.

Pursuant to RCW 34.05.314, following is the Depart-

MISC.

**DEPARTMENT OF NATURAL RESOURCES
RULE DEVELOPMENT AGENDA**

July 2003 to December 2003

WAC Chapter or Section	Purpose of rule being developed or amended
WAC 332-(undetermined)	Establish rates for "reasonable administrative costs" associated with DNR's administration of public lands. <u>Establish rates for "reasonable administrative costs" associated with DNR's management of state-owned and managed lands.</u>
WAC 332-30-166	Increase the fee in subsection (a) to \$0.55 per cubic yard, and in subsection (b) to \$0.11 per cubic yard, and delete subsection (c) entirely.

Jamey Taylor
Rules Coordinator

**WSR 03-14-132
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed July 1, 2003, 4:37 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-34 MAA.
Subject: Physician-related services: Fee schedule updates and technical changes.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the Medical Assistance Administration (MAA) will:

- The updated MPFSDB Year 2003 RVUs;
- The updated Year 2003 Relative Value Guide BAUs;
- The updated MCLFS;
- The Year 2003 additions of CPT™ codes;
- The additions to HCPCS Level II codes; AND
- The technical changes listed in this numbered memorandum.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memo-

rand," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 30, 2003

E. A. Myers, Manager
Rules and Publications Section

**WSR 03-14-133
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed July 1, 2003, 4:38 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-22 MAA.
Subject: Home health program: Fee schedule update and discontinue state unique revenue codes.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the Medical Assistance Administration (MAA) will implement the following:

- Maximum allowable fees for the Home Health Program will remain at their current levels; and
- **State assigned revenue codes will be discontinued.**

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 30, 2003

E. A. Myers, Manager
Rules and Publications Section

**WSR 03-14-134
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed July 1, 2003, 4:40 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 03-52 MAA.
Subject: Home infusion therapy/parenteral nutrition: Fee schedule update.

Effective Date: For claims with dates of services on and after July 1, 2003.

Document Description: **Effective for dates of service on and after July 1, 2003**, the maximum allowable fees for the home infusion therapy/parenteral nutrition program will remain at their current levels.

MISC.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (Click on "Numbered Memoranda," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail <mailto:sullikm@dshs.wa.gov>.

June 30, 2003
 E. A. Myers, Manager
 Rules and Publications Section

WSR 03-14-139
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—June 27, 2003]

Listed below is the REVISED open meeting notice for the June 30 board of trustees meeting and the July 1-2, 2003, board retreat. (The revision is bolded.)

The board of trustees of Eastern Washington University will hold its next meeting on Monday, June 30, 2003, in the Pence Union Building, Rooms 263-5-7, on the Cheney Campus. This meeting will begin with a one-hour executive session to (1) evaluate the qualifications of an applicant for public employment or to review the performance of a public employee, and (2) discuss with legal counsel representing the agency matters relating to agency enforcement actions, litigation or potential litigation. The open public meeting will begin at 1:00 p.m. with action items to include a hearing on codifying Eastern's alcohol policy into a WAC, approval of the May minutes, approval of the Fiscal Year 2003-04 Budget, and approval of the personnel actions. The open public meeting will be followed by a second executive session from approximately 4:00 - 6:00 p.m. to review the performance of a public employee.

The board will hold its annual retreat at Mukogawa Fort Wright Institute, North 4000 Randolph Road, on Tuesday and Wednesday, July 1 and 2. On July 1 the retreat will begin

with an executive session from 8:00 - 10:00 a.m. to review the performance of a public employee. Following the executive session the board will discuss the topics of diversity and a capital campaign. The first day of the retreat will end at 5:00 p.m., with a dinner following. On Tuesday, beginning at 8:00 a.m., the board will discuss strategic governance. No final action will be taken on these three topics. The second day will include an open session from 12:00 - 12:30 p.m. for possible action regarding the performance of a public employee, and will conclude with a luncheon from 12:30 - 1:30.

WSR 03-14-143
AGENDA
UTILITIES AND TRANSPORTATION
COMMISSION
 [Filed July 2, 2003, 10:30 a.m.]

The Washington Utilities and Transportation Commission submits its semiannual report rule development agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

Please direct any questions to Karen M. Caille at (360) 664-1136 or kcaille@wutc.wa.gov.

Utilities and Transportation Commission
Semiannual Rules Development Agenda
(July 1, 2003 - December 31, 2003)

This report is the Utilities and Transportation Commission's semiannual report rule development agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

Additional rule-making activity not on the agenda may be undertaken to meet conditions not now anticipated.

Dates that are in "bold" print, indicate that filing has occurred. All other dates are projected. The commission maintains a schedule of rule-making activity that is updated several times per month. See <www.wutc.wa.gov>.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 480-09 WAC Chapter 480-04 WAC	Procedural rules. Public access to information and records.	Dennis Moss Administrative Law Division (360) 664-1164	6/1/01	8/13/03	9/24/03	Review of commission procedural rules and public access to information and records rules.

MISC.

Chapters 480-15 480-30 480-51 480-70 480-75 480-90 480-92 480-100 480-110 480-120 480-121 480-140 480-146 WAC	Rule on reporting transactions between regulated companies and subsidiaries.	Fred Ottavelli Regulatory Services (360) 664-1297	10/2/02	10/22/03	12/10/03	Consider establishing rules that would require reporting of transactions between regulated companies and their subsidiaries.
WAC 480-62-320	Petition for rule making on locomotive remote technology train operations.	Mike Rowswell Rail Safety (360) 664-1205	1/24/03	10/22/03	12/31/03	Consider adopting or amending rules related to public and employee safety and the protection of property from damage associated with remote control locomotive operations.
Chapter 480-30 WAC Chapter 480-40 WAC	Bus rules.	Bonnie Allen Regulatory Services (360) 664-1226	5/28/02	11/26/03	1/28/04	Review of rules as a result of Governor Locke's Executive Order 97-02.
Chapter 480-93 WAC	Pipeline safety rules.	Sondra Walsh Pipeline Safety (360) 664-1286	8/9/01	12/10/03	6/2004	Review of rules as a result of Governor Locke's Executive Order 97-02.
WAC 480-100-238 480-90-238	Resource planning rules.	Graciela Etchart Regulatory Services (360) 664-1310	4/15/03	12/10/03	3/2004	Consider resource planning policy revisions. Review of rules as a result of Governor Locke's Executive Order 97-02.
Chapter 480-107 WAC	Electric companies—Purchasers of electricity.	Graciela Etchart Regulatory Services (360) 664-1310	4/15/03	12/10/03	3/2004	Review of rules as a result of Governor Locke's Executive Order 97-02.
Chapter 480-11 WAC	SEPA procedures.	Not assigned	10/2003 (estimated)	To be determined	To be determined	Reference Department of Ecology rules; identify commission's responsible official.
Title 480 WAC	Adoption by reference.	Sharyn Bate Regulatory Services (360) 664-1295	N/A (Expedited Rule making)	To be determined	To be determined	Update adoption-by-reference dates in Title 480 WAC.
Title 480 WAC	Internal WAC reference update.	Sharyn Bate Regulatory Services (360) 664-1295	N/A (Expedited Rule making)	6/27/03 (CR-105)	9/10/03	Update internal WAC references in Title 480 WAC.
Chapter 480-15 WAC	Household goods.	Not assigned	8/13/03 (estimated)	To be determined	To be determined	Update tariff fees.

MISC.

Carole J. Washburn
Secretary

WSR 03-14-148
AGENDA
DEPARTMENT OF
FISH AND WILDLIFE
[Filed July 2, 2003, 11:12 a.m.]

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE
RULE DEVELOPMENT AGENDA
July 1, 2003 through December 31, 2003

July 22, 2003

Hearing and possible adoption on nontoxic shot rule

CR-102 filed June 16, 2003, WSR 03-13-088

Following please find the semiannual rule agenda for the Department of Fish and Wildlife for filing in the Washington State Register as per RCW 34.05.314.

August 1, 2003

- (1) File nuisance wildlife control operator rule
CR-101 filed June 18, 2003, WSR 03-13-139
- (2) Hearing on five sturgeon limit
CR-102 filed June 16, 2003, WSR 03-13-086
- (3) Hearing and possible adoption on cougar public safety removal rule
CR-102 filed June 18, 2003, WSR 03-13-142
- (4) Hearing and possible adoption on Puget Sound gill net seasons
CR-102 filed June 18, 2003, WSR 03-13-146
- (5) Hearing and possible adoption on shrimp rot cord and shrimp district rules
CR-102 filed June 18, 2003, WSR 03-13-147
- (6) Hearing and possible adoption of shellfish quick reporting rule
CR-102 filed June 16, 2003, WSR 03-13-087
- (7) Hearing and possible adoption of sea cucumber rules
CR-102 filed June 16, 2003, WSR 03-13-085
- (8) Hearing and possible adoption of coastal spot prawn rules
CR-102 filed June 10, 2003, WSR 03-13-030
- (9) Hearing and possible adoption of shed antler rule
CR-102 filed June 3, 2003, WSR 03-12-078
- (10) Hearing and possible adoption of commercial wild shellfish rule
CR-102 filed June 18, 2003, WSR 03-13-140
- (11) Hearing and possible adoption of fall hunting rules
CR-102 filed June 18, 2003, WSR 03-13-115, 03-13-116, 03-13-117, 03-13-118, 03-13-119, 03-13-120, 03-13-121
- (12) Hearing and possible adoption of auction and hunter orange rules
CR-102 filed June 18, 2003, WSR 03-13-141
- (13) Hearing and possible adoption of yellow eye rockfish rule
CR-102 filed June 16, 2003, WSR 03-13-083
- (14) Hearing and possible adoption of disability payment procedure
CR-102 filed June 3, 2003, WSR 03-12-076
- (15) Hearing and possible adoption of bonus point rule
CR-102 filed June 3, 2003, WSR 03-12-077
- (16) Hearing and possible adoption of oyster reserve harvest rule
CR-102 filed June 10, 2003, WSR 03-13-032
- (17) File permanent combination license rule
CR-101 filed June 10, 2003, WSR 03-13-031

- (1) Adopt North of Falcon freshwater sport rules
CR-105 filed June 4, 2003, WSR 03-12-094
- (2) Adopt North of Falcon saltwater sport rules
CR-105 filed June 4, 2003, WSR 03-12-095

August 15, 2003

File soft shell crab rule

CR-101 filed June 26, 2003, WSR 03-14-068

August 19, 2003

- (1) Adopt sturgeon closure rule
CR-105 filed June 5, 2003, WSR 03-13-011
- (2) Adopt North of Falcon coastal harbor rules
CR-105 filed June 17, 2003, WSR 03-13-106
- (3) Adopt stationary gear restriction rule
CR-105 filed June 18, 2003, WSR 03-13-144
- (4) Adopt North of Falcon Puget Sound net rules (except gill net seasons)
CR-105 filed June 18, 2003, WSR 03-13-145

September 3, 2003

Adopt North of Falcon Duwamish waterway gear rule

CR-105 filed June 26, 2003, WSR 03-14-069

December 5, 2003

Hearing and possible adoption of oiled wildlife rules

CR-101 expected filing September 3, 2003

Evan Jacoby
Rules Coordinator

August 5, 2003

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:
 AMD = Amendment of existing section
 A/R = Amending and recodifying a section
 DECOD = Decodification of an existing section
 NEW = New section not previously codified
 OBJECT = Notice of objection by Joint Administrative Rules Review Committee
 PREP = Preproposal comments
 RE-AD = Readoption of existing section
 RECOD = Recodification of previously codified section
 REP = Repeal of existing section
 RESCIND = Rescind of existing section
 REVIEW = Review of previously adopted rule
 SUSP = Suspending an existing section

Suffixes:
 -C = Continuance of previous proposal
 -E = Emergency action
 -P = Proposed action
 -S = Supplemental notice
 -W = Withdrawal of proposed action
 -X = Expedited rule making
 -XA = Expedited adoption
 -XR = Expedited repeal
 No suffix means permanent action

WAC # Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
3- 20-100	REP-P	03-05-101	16-200-7401	NEW	03-02-100	16-238-110	REP-P	03-07-082
3- 20-100	REP	03-09-144	16-200-7402	NEW	03-02-100	16-238-110	REP	03-12-040
3- 20-200	NEW-P	03-05-101	16-200-7403	NEW	03-02-100	16-239-010	NEW-P	03-07-082
3- 20-200	NEW	03-09-144	16-200-7404	NEW	03-02-100	16-239-010	NEW	03-12-040
3- 20-300	NEW-P	03-05-101	16-200-7405	NEW	03-02-100	16-239-020	NEW-P	03-07-082
3- 20-300	NEW	03-09-144	16-200-7406	NEW	03-02-100	16-239-020	NEW	03-12-040
4- 25	PREP	03-12-052	16-200-7407	NEW	03-02-100	16-239-030	NEW-P	03-07-082
4- 25-622	PREP	03-12-083	16-219-016	REP-X	03-09-088	16-239-030	NEW	03-12-040
4- 25-720	AMD-P	03-09-051	16-219-016	REP	03-14-044	16-239-040	NEW-P	03-07-082
4- 25-720	AMD-S	03-10-036	16-228-1231	AMD-P	03-02-099	16-239-040	NEW	03-12-040
4- 25-721	PREP	03-05-012	16-228-1231	AMD	03-05-034	16-239-050	NEW-P	03-07-082
4- 25-721	AMD-P	03-09-052	16-228-1262	NEW-P	03-02-098	16-239-050	NEW	03-12-040
16- 54-155	NEW-E	03-03-085	16-228-1262	NEW	03-05-033	16-239-060	NEW-P	03-07-082
16- 54-155	PREP	03-12-020	16-228-1264	NEW-P	03-02-098	16-239-060	NEW	03-12-040
16- 54-155	NEW-E	03-12-021	16-228-1264	NEW	03-05-033	16-239-061	NEW-P	03-07-082
16-100-001	REP-X	03-13-130	16-228-1266	NEW-P	03-02-098	16-239-061	NEW	03-12-040
16-100-010	REP-X	03-13-130	16-228-1266	NEW	03-05-033	16-239-062	NEW-P	03-07-082
16-100-020	REP-X	03-13-130	16-229-010	AMD-P	03-05-075	16-239-062	NEW	03-12-040
16-157-020	AMD	03-03-044	16-229-010	AMD	03-09-034	16-239-063	NEW-P	03-07-082
16-157-030	AMD	03-03-044	16-229-200	AMD-P	03-05-075	16-239-063	NEW	03-12-040
16-157-100	REP	03-03-044	16-229-200	AMD-W	03-09-035	16-239-064	NEW-P	03-07-082
16-157-110	REP	03-03-044	16-231-107	AMD-X	03-07-037	16-239-064	NEW	03-12-040
16-157-200	REP	03-03-044	16-231-107	AMD	03-11-097	16-239-065	NEW-P	03-07-082
16-157-220	AMD	03-03-044	16-237-170	PREP	03-12-086	16-239-065	NEW	03-12-040
16-157-230	AMD	03-03-044	16-238-010	REP-P	03-07-082	16-239-070	NEW-P	03-07-082
16-157-240	AMD	03-03-044	16-238-010	REP	03-12-040	16-239-070	NEW	03-12-040
16-157-245	NEW	03-03-044	16-238-020	REP-P	03-07-082	16-239-071	NEW-P	03-07-082
16-157-250	AMD	03-03-044	16-238-020	REP	03-12-040	16-239-071	NEW	03-12-040
16-157-255	AMD	03-03-044	16-238-030	REP-P	03-07-082	16-239-072	NEW-P	03-07-082
16-157-260	AMD	03-03-044	16-238-030	REP	03-12-040	16-239-072	NEW	03-12-040
16-157-270	AMD	03-03-044	16-238-060	REP-P	03-07-082	16-239-073	NEW-P	03-07-082
16-157-280	REP	03-03-044	16-238-060	REP	03-12-040	16-239-073	NEW	03-12-040
16-157-290	AMD	03-03-044	16-238-070	REP-P	03-07-082	16-239-074	NEW-P	03-07-082
16-160-010	AMD	03-03-045	16-238-070	REP	03-12-040	16-239-074	NEW	03-12-040
16-160-020	AMD	03-03-045	16-238-082	REP-P	03-07-082	16-239-075	NEW-P	03-07-082
16-160-025	REP	03-03-045	16-238-082	REP	03-12-040	16-239-075	NEW	03-12-040
16-160-035	AMD	03-03-045	16-238-090	REP-P	03-07-082	16-239-076	NEW-P	03-07-082
16-160-060	AMD	03-03-045	16-238-090	REP	03-12-040	16-239-076	NEW	03-12-040
16-160-070	AMD	03-03-045	16-238-100	REP-P	03-07-082	16-239-077	NEW-P	03-07-082
16-200-715	PREP	03-13-114	16-238-100	REP	03-12-040	16-239-077	NEW	03-12-040

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-239-078	NEW-P	03-07-082	16-239-1020	NEW-P	03-07-082	16-321-080	REP-X	03-03-124
16-239-078	NEW	03-12-040	16-239-1020	NEW	03-12-040	16-321-080	REP	03-08-018
16-239-079	NEW-P	03-07-082	16-239-1030	NEW-P	03-07-082	16-321-090	REP-X	03-03-124
16-239-079	NEW	03-12-040	16-239-1030	NEW	03-12-040	16-321-090	REP	03-08-018
16-239-080	NEW-P	03-07-082	16-301-005	PREP	03-12-085	16-321-100	REP-X	03-03-124
16-239-080	NEW	03-12-040	16-301-010	PREP	03-12-085	16-321-100	REP	03-08-018
16-239-0801	NEW-P	03-07-082	16-301-055	PREP	03-12-085	16-321-110	REP-X	03-03-124
16-239-0801	NEW	03-12-040	16-302-045	PREP	03-12-085	16-321-110	REP	03-08-018
16-239-0802	NEW-P	03-07-082	16-302-110	PREP	03-12-085	16-321-120	REP-X	03-03-124
16-239-0802	NEW	03-12-040	16-302-150	PREP	03-12-085	16-321-120	REP	03-08-018
16-239-0803	NEW-P	03-07-082	16-302-155	PREP	03-12-085	16-328-008	AMD-P	03-07-090
16-239-0803	NEW	03-12-040	16-302-255	PREP	03-12-085	16-328-008	AMD	03-10-080
16-239-0804	NEW-P	03-07-082	16-302-385	PREP	03-12-085	16-328-010	PREP	03-03-121
16-239-0804	NEW	03-12-040	16-302-410	PREP	03-12-085	16-328-010	REP-P	03-07-090
16-239-0805	NEW-P	03-07-082	16-303-200	AMD-P	03-03-130	16-328-010	REP	03-10-080
16-239-0805	NEW	03-12-040	16-303-200	AMD	03-08-005	16-328-011	PREP	03-03-121
16-239-0806	NEW-P	03-07-082	16-303-200	PREP	03-12-084	16-328-011	AMD-P	03-07-090
16-239-0806	NEW	03-12-040	16-303-210	AMD-P	03-03-130	16-328-011	AMD	03-10-080
16-239-0807	NEW-P	03-07-082	16-303-210	AMD	03-08-005	16-333-010	AMD-P	03-07-089
16-239-0807	NEW	03-12-040	16-303-210	PREP	03-12-084	16-333-010	AMD	03-10-081
16-239-0808	NEW-P	03-07-082	16-303-220	PREP	03-12-084	16-333-040	PREP	03-03-120
16-239-0808	NEW	03-12-040	16-303-230	AMD-P	03-03-130	16-333-040	REP-P	03-07-089
16-239-0808	NEW	03-12-040	16-303-230	AMD	03-08-005	16-333-040	REP	03-10-081
16-239-0809	NEW-P	03-07-082	16-303-230	PREP	03-12-084	16-333-041	PREP	03-03-120
16-239-0809	NEW	03-12-040	16-303-230	PREP	03-12-084	16-333-041	AMD-P	03-07-089
16-239-0810	NEW-P	03-07-082	16-303-240	PREP	03-12-084	16-333-041	AMD	03-10-081
16-239-0810	NEW	03-12-040	16-303-250	AMD-P	03-03-130	16-400-040	AMD-P	03-07-081
16-239-0811	NEW-P	03-07-082	16-303-250	AMD	03-08-005	16-400-040	AMD-W	03-10-062
16-239-0811	NEW	03-12-040	16-303-250	PREP	03-12-084	16-400-100	AMD-P	03-07-081
16-239-0812	NEW-P	03-07-082	16-303-300	AMD-P	03-03-130	16-400-100	AMD-W	03-10-062
16-239-0812	NEW	03-12-040	16-303-300	AMD	03-08-005	16-400-100	AMD-W	03-10-062
16-239-0813	NEW-P	03-07-082	16-303-300	PREP	03-12-084	16-400-210	AMD-P	03-07-081
16-239-0813	NEW	03-12-040	16-303-310	AMD-P	03-03-130	16-400-210	AMD-W	03-10-062
16-239-090	NEW-P	03-07-082	16-303-310	AMD	03-08-005	16-400-215	NEW-P	03-07-081
16-239-090	NEW	03-12-040	16-303-310	PREP	03-12-084	16-400-215	NEW-W	03-10-062
16-239-0901	NEW-P	03-07-082	16-303-315	PREP	03-12-084	16-401	PREP	03-14-135
16-239-0901	NEW	03-12-040	16-303-317	AMD-P	03-03-130	16-401-021	AMD-P	03-07-091
16-239-0902	NEW-P	03-07-082	16-303-317	AMD	03-08-005	16-401-021	AMD	03-10-083
16-239-0902	NEW	03-12-040	16-303-317	PREP	03-12-084	16-401-023	AMD-P	03-07-091
16-239-0903	NEW-P	03-07-082	16-303-320	AMD-P	03-03-130	16-401-023	AMD	03-10-083
16-239-0903	NEW	03-12-040	16-303-320	AMD	03-08-005	16-401-026	REP-P	03-07-091
16-239-0904	NEW-P	03-07-082	16-303-320	PREP	03-12-084	16-401-026	REP	03-10-083
16-239-0904	NEW	03-12-040	16-303-330	AMD-P	03-03-130	16-401-027	AMD-P	03-07-091
16-239-0905	NEW-P	03-07-082	16-303-330	AMD	03-08-005	16-401-027	AMD	03-10-083
16-239-0905	NEW	03-12-040	16-303-330	PREP	03-12-084	16-401-031	REP-P	03-07-091
16-239-0906	NEW-P	03-07-082	16-303-340	AMD	03-06-005	16-401-031	REP	03-10-083
16-239-0906	NEW	03-12-040	16-319-041	AMD	03-06-006	16-401-032	AMD-P	03-07-091
16-239-0907	NEW-P	03-07-082	16-321-001	REP-X	03-03-124	16-401-032	AMD	03-10-083
16-239-0907	NEW	03-12-040	16-321-001	REP	03-08-018	16-401-041	AMD-P	03-07-091
16-239-0908	NEW-P	03-07-082	16-321-010	REP-X	03-03-124	16-401-041	AMD	03-10-083
16-239-0908	NEW	03-12-040	16-321-010	REP	03-08-018	16-401-060	NEW-P	03-06-102
16-239-0909	NEW-P	03-07-082	16-321-020	REP-X	03-03-124	16-401-060	NEW	03-09-112
16-239-0909	NEW	03-12-040	16-321-020	REP	03-08-018	16-449	PREP	03-14-142
16-239-0910	NEW-P	03-07-082	16-321-030	REP-X	03-03-124	16-459	PREP	03-14-142
16-239-0910	NEW	03-12-040	16-321-030	REP	03-08-018	16-465-001	REP	03-05-079
16-239-0911	NEW-P	03-07-082	16-321-040	REP-X	03-03-124	16-465-060	REP	03-05-079
16-239-0911	NEW	03-12-040	16-321-040	REP	03-08-018	16-470-905	AMD-P	03-07-092
16-239-0912	NEW-P	03-07-082	16-321-050	REP-X	03-03-124	16-470-905	AMD	03-10-082
16-239-0912	NEW	03-12-040	16-321-050	REP	03-08-018	16-470-911	REP-P	03-07-092
16-239-100	NEW-P	03-07-082	16-321-060	REP-X	03-03-124	16-470-911	REP	03-10-082
16-239-100	NEW	03-12-040	16-321-060	REP	03-08-018	16-470-912	AMD-P	03-07-092
16-239-1010	NEW-P	03-07-082	16-321-070	REP-X	03-03-124	16-470-912	AMD	03-10-082
16-239-1010	NEW	03-12-040	16-321-070	REP	03-08-018	16-470-916	REP-P	03-07-092

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-470-916	REP	03-10-082	118-66-030	NEW-P	03-04-108	132F-120-042	REP-P	03-06-067
16-470-917	AMD-P	03-07-092	118-66-030	NEW	03-10-014	132F-120-043	REP-P	03-06-067
16-470-917	AMD	03-10-082	118-66-040	NEW-P	03-04-108	132F-120-050	REP-P	03-06-067
16-470-921	AMD-P	03-07-092	118-66-040	NEW	03-10-014	132F-120-060	REP-P	03-06-067
16-470-921	AMD	03-10-082	118-66-042	NEW-P	03-04-108	132F-120-061	REP-P	03-06-067
16-536-040	AMD-C	03-06-101	118-66-042	NEW	03-10-014	132F-120-070	REP-P	03-06-067
16-536-040	AMD-W	03-12-042	118-66-045	NEW-P	03-04-108	132F-120-080	REP-P	03-06-067
16-600-001	REP-X	03-13-129	118-66-045	NEW	03-10-014	132F-120-090	REP-P	03-06-067
16-600-010	REP-X	03-13-129	118-66-050	NEW-P	03-04-108	132F-120-100	REP-P	03-06-067
16-603-010	AMD-X	03-08-088	118-66-050	NEW	03-10-014	132F-120-110	REP-P	03-06-067
16-603-010	AMD	03-13-005	118-66-080	NEW-P	03-04-108	132F-120-120	REP-P	03-06-067
16-607	PREP	03-13-128	118-66-080	NEW	03-10-014	132F-120-130	REP-P	03-06-067
16-657	PREP	03-03-122	118-66-081	NEW-P	03-04-108	132F-120-140	REP-P	03-06-067
16-659	PREP	03-03-122	118-66-081	NEW	03-10-014	132F-120-150	REP-P	03-06-067
16-662-100	AMD-X	03-03-123	118-66-085	NEW-P	03-04-108	132F-120-160	REP-P	03-06-067
16-662-100	AMD	03-08-017	118-66-085	NEW	03-10-014	132F-120-170	REP-P	03-06-067
16-662-105	AMD-X	03-03-123	118-66-090	NEW-P	03-04-108	132F-120-180	REP-P	03-06-067
16-662-105	AMD	03-08-017	118-66-090	NEW	03-10-014	132F-120-190	REP-P	03-06-067
16-662-110	AMD-X	03-03-123	131	PREP	03-09-043	132F-120-200	REP-P	03-06-067
16-662-110	AMD	03-08-017	131	PREP	03-14-123	132F-120-210	REP-P	03-06-067
16-662-115	AMD-X	03-03-123	131	PREP	03-14-124	132F-121-010	NEW-P	03-06-067
16-662-115	AMD	03-08-017	132A	PREP	03-04-091	132F-121-020	NEW-P	03-06-067
16-690	PREP	03-14-142	132A-116-011	AMD-P	03-08-056	132F-121-030	NEW-P	03-06-067
16-750	PREP	03-10-012	132A-116-011	AMD	03-13-133	132F-121-040	NEW-P	03-06-067
16-750-005	AMD	03-04-001	132A-150-010	AMD-P	03-08-056	132F-121-050	NEW-P	03-06-067
16-750-011	AMD	03-04-001	132A-150-010	AMD	03-13-133	132F-121-060	NEW-P	03-06-067
16-750-015	AMD	03-04-001	132A-320-010	AMD-P	03-08-056	132F-121-070	NEW-P	03-06-067
16-752-300	AMD-X	03-11-098	132A-320-010	AMD	03-13-133	132F-121-080	NEW-P	03-06-067
16-752-305	AMD-X	03-11-098	132F-01	AMD-C	03-10-078	132F-121-090	NEW-P	03-06-067
16-752-315	AMD-X	03-11-098	132F-01-010	AMD-P	03-06-067	132F-121-100	NEW-P	03-06-067
16-752-320	AMD-X	03-11-098	132F-01-020	REP-P	03-06-067	132F-121-110	NEW-P	03-06-067
36-12-170	AMD-W	03-06-072	132F-104	AMD-C	03-10-078	132F-121-120	NEW-P	03-06-067
36-14-120	NEW-W	03-06-072	132F-104-010	AMD-P	03-06-067	132F-121-130	NEW-P	03-06-067
51-04	PREP	03-08-027	132F-104-020	AMD-P	03-06-067	132F-121-140	NEW-P	03-06-067
51-04	PREP	03-12-017	132F-104-030	REP-P	03-06-067	132F-121-150	NEW-P	03-06-067
82-50-021	AMD-X	03-07-083	132F-104-801	REP-P	03-06-067	132F-121-160	NEW-P	03-06-067
82-50-021	AMD	03-11-073	132F-104-810	AMD-P	03-06-067	132F-121-170	NEW-P	03-06-067
98-70-010	PREP	03-04-077	132F-104-811	REP-P	03-06-067	132F-121-180	NEW-P	03-06-067
98-70-010	AMD-P	03-08-009	132F-104-812	REP-P	03-06-067	132F-121-190	NEW-P	03-06-067
98-70-010	AMD	03-11-020	132F-104-813	REP-P	03-06-067	132F-121-200	NEW-P	03-06-067
118-65-010	REP-P	03-04-108	132F-104-814	REP-P	03-06-067	132F-121-210	NEW-P	03-06-067
118-65-010	REP	03-10-014	132F-104-815	REP-P	03-06-067	132F-121-220	NEW-P	03-06-067
118-65-020	REP-P	03-04-108	132F-104-816	REP-P	03-06-067	132F-121-230	NEW-P	03-06-067
118-65-020	REP	03-10-014	132F-104-817	REP-P	03-06-067	132F-121-240	NEW-P	03-06-067
118-65-030	REP-P	03-04-108	132F-104-818	REP-P	03-06-067	132F-121-250	NEW-P	03-06-067
118-65-030	REP	03-10-014	132F-104-819	REP-P	03-06-067	132F-121-260	NEW-P	03-06-067
118-65-040	REP-P	03-04-108	132F-108	AMD-P	03-06-067	132H-116	PREP	03-04-074
118-65-040	REP	03-10-014	132F-108	AMD-C	03-10-078	132H-120	PREP	03-04-075
118-65-050	REP-P	03-04-108	132F-108-020	AMD-P	03-06-067	132H-120-020	AMD-P	03-08-021
118-65-050	REP	03-10-014	132F-108-050	AMD-P	03-06-067	132H-120-020	AMD	03-14-015
118-65-060	REP-P	03-04-108	132F-108-070	AMD-P	03-06-067	132H-120-030	AMD-P	03-08-021
118-65-060	REP	03-10-014	132F-108-080	AMD-P	03-06-067	132H-120-030	AMD	03-14-015
118-65-070	REP-P	03-04-108	132F-108-100	AMD-P	03-06-067	132H-120-040	AMD-P	03-08-021
118-65-070	REP	03-10-014	132F-108-120	AMD-P	03-06-067	132H-120-040	AMD	03-14-015
118-65-081	REP-P	03-04-108	132F-108-130	AMD-P	03-06-067	132H-120-050	AMD-P	03-08-021
118-65-081	REP	03-10-014	132F-108-140	AMD-P	03-06-067	132H-120-050	AMD	03-14-015
118-65-090	REP-P	03-04-108	132F-120	REP-P	03-06-067	132H-120-200	AMD-P	03-08-021
118-65-090	REP	03-10-014	132F-120	AMD-C	03-10-078	132H-120-200	AMD	03-14-015
118-66-010	NEW-P	03-04-108	132F-120-020	REP-P	03-06-067	132H-120-220	AMD-P	03-08-021
118-66-010	NEW	03-10-014	132F-120-030	REP-P	03-06-067	132H-120-220	AMD	03-14-015
118-66-020	NEW-P	03-04-108	132F-120-040	REP-P	03-06-067	132H-120-300	AMD-P	03-08-021
118-66-020	NEW	03-10-014	132F-120-041	REP-P	03-06-067	132H-120-300	AMD	03-14-015

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132H-120-310	AMD-P	03-08-021	132Q- 02-380	NEW-P	03-13-081	132Q- 06-025	REP-P	03-13-082
132H-120-310	AMD	03-14-015	132Q- 02-390	NEW-P	03-13-081	132Q- 06-030	REP-P	03-13-082
132H-132-010	REP-P	03-08-019	132Q- 02-400	NEW-P	03-13-081	132Q- 06-035	REP-P	03-13-082
132H-132-010	REP	03-14-014	132Q- 02-410	NEW-P	03-13-081	132Q- 06-040	REP-P	03-13-082
132H-132-020	REP-P	03-08-019	132Q- 02-420	NEW-P	03-13-081	132Q- 07	PREP	03-09-094
132H-132-020	REP	03-14-014	132Q- 02-430	NEW-P	03-13-081	132Q- 07-010	NEW-P	03-13-082
132H-152-135	PREP	03-04-073	132Q- 02-440	NEW-P	03-13-081	132Q- 07-020	NEW-P	03-13-082
132H-152-135	REP-P	03-08-020	132Q- 02-450	NEW-P	03-13-081	132Q- 07-030	NEW-P	03-13-082
132H-152-135	REP	03-14-013	132Q- 03	PREP	03-09-094	132Q- 07-040	NEW-P	03-13-082
132H-155-010	NEW-P	03-08-020	132Q- 03-005	REP-P	03-13-082	132Q- 07-050	NEW-P	03-13-082
132H-155-010	NEW	03-14-013	132Q- 03-010	REP-P	03-13-082	132Q- 07-060	NEW-P	03-13-082
132H-155-020	NEW-P	03-08-020	132Q- 03-020	REP-P	03-13-082	132Q- 20	PREP	03-09-094
132H-155-020	NEW	03-14-013	132Q- 03-030	REP-P	03-13-082	132Q- 20-005	NEW-P	03-13-082
132H-155-030	NEW-P	03-08-020	132Q- 04	PREP	03-09-094	132Q- 20-010	AMD-P	03-13-082
132H-155-030	NEW	03-14-013	132Q- 04-010	REP-P	03-13-082	132Q- 20-020	REP-P	03-13-082
132H-155-040	NEW-P	03-08-020	132Q- 04-020	REP-P	03-13-082	132Q- 20-040	AMD-P	03-13-082
132H-155-040	NEW	03-14-013	132Q- 04-030	REP-P	03-13-082	132Q- 20-050	AMD-P	03-13-082
132H-155-040	NEW	03-14-138	132Q- 04-031	REP-P	03-13-082	132Q- 20-060	AMD-P	03-13-082
132H-155-050	NEW-P	03-08-020	132Q- 04-076	REP-P	03-13-082	132Q- 20-070	AMD-P	03-13-082
132H-155-050	NEW	03-14-013	132Q- 04-077	REP-P	03-13-082	132Q- 20-080	AMD-P	03-13-082
132H-155-060	NEW-P	03-08-020	132Q- 04-078	REP-P	03-13-082	132Q- 20-090	AMD-P	03-13-082
132H-155-060	NEW	03-14-013	132Q- 04-078	REP-P	03-13-082	132Q- 20-090	AMD-P	03-13-082
132H-155-060	NEW	03-14-013	132Q- 04-078	REP-P	03-13-082	132Q- 20-110	AMD-P	03-13-082
132H-155-070	NEW-P	03-08-020	132Q- 04-097	REP-P	03-13-082	132Q- 20-120	AMD-P	03-13-082
132H-155-070	NEW	03-14-013	132Q- 04-100	REP-P	03-13-082	132Q- 20-130	AMD-P	03-13-082
132Q- 02	PREP	03-09-094	132Q- 04-105	REP-P	03-13-082	132Q- 20-140	AMD-P	03-13-082
132Q- 02-010	NEW-P	03-13-081	132Q- 04-110	REP-P	03-13-082	132Q- 20-140	AMD-P	03-13-082
132Q- 02-020	NEW-P	03-13-081	132Q- 04-120	REP-P	03-13-082	132Q- 20-150	AMD-P	03-13-082
132Q- 02-030	NEW-P	03-13-081	132Q- 04-130	REP-P	03-13-082	132Q- 20-170	AMD-P	03-13-082
132Q- 02-040	NEW-P	03-13-081	132Q- 04-140	REP-P	03-13-082	132Q- 20-180	AMD-P	03-13-082
132Q- 02-050	NEW-P	03-13-081	132Q- 04-150	REP-P	03-13-082	132Q- 20-190	AMD-P	03-13-082
132Q- 02-060	NEW-P	03-13-081	132Q- 04-160	REP-P	03-13-082	132Q- 20-200	AMD-P	03-13-082
132Q- 02-070	NEW-P	03-13-081	132Q- 04-170	REP-P	03-13-082	132Q- 20-210	AMD-P	03-13-082
132Q- 02-080	NEW-P	03-13-081	132Q- 04-180	REP-P	03-13-082	132Q- 20-220	AMD-P	03-13-082
132Q- 02-090	NEW-P	03-13-081	132Q- 04-180	REP-P	03-13-082	132Q- 20-220	AMD-P	03-13-082
132Q- 02-100	NEW-P	03-13-081	132Q- 04-190	REP-P	03-13-082	132Q- 20-230	AMD-P	03-13-082
132Q- 02-110	NEW-P	03-13-081	132Q- 04-200	REP-P	03-13-082	132Q- 20-240	AMD-P	03-13-082
132Q- 02-120	NEW-P	03-13-081	132Q- 04-210	REP-P	03-13-082	132Q- 20-250	AMD-P	03-13-082
132Q- 02-130	NEW-P	03-13-081	132Q- 04-220	REP-P	03-13-082	132Q- 20-260	AMD-P	03-13-082
132Q- 02-140	NEW-P	03-13-081	132Q- 04-230	REP-P	03-13-082	132Q- 20-265	AMD-P	03-13-082
132Q- 02-150	NEW-P	03-13-081	132Q- 04-240	REP-P	03-13-082	132Q- 20-270	AMD-P	03-13-082
132Q- 02-160	NEW-P	03-13-081	132Q- 04-250	REP-P	03-13-082	132Q- 94	PREP	03-09-094
132Q- 02-170	NEW-P	03-13-081	132Q- 04-260	REP-P	03-13-082	132Q- 94-010	AMD-P	03-13-082
132Q- 02-180	NEW-P	03-13-081	132Q- 04-270	REP-P	03-13-082	132Q- 94-020	AMD-P	03-13-082
132Q- 02-190	NEW-P	03-13-081	132Q- 04-280	REP-P	03-13-082	132Q- 94-030	AMD-P	03-13-082
132Q- 02-200	NEW-P	03-13-081	132Q- 05	PREP	03-09-094	132Q- 94-130	AMD-P	03-13-082
132Q- 02-210	NEW-P	03-13-081	132Q- 05-010	REP-P	03-13-082	132Q- 94-150	AMD-P	03-13-082
132Q- 02-220	NEW-P	03-13-081	132Q- 05-020	REP-P	03-13-082	132Q- 94-160	NEW-P	03-13-082
132Q- 02-230	NEW-P	03-13-081	132Q- 05-030	REP-P	03-13-082	132Q-108	PREP	03-09-094
132Q- 02-240	NEW-P	03-13-081	132Q- 05-033	REP-P	03-13-082	132Q-108-010	AMD-P	03-13-082
132Q- 02-250	NEW-P	03-13-081	132Q- 05-036	REP-P	03-13-082	132Q-108-020	AMD-P	03-13-082
132Q- 02-260	NEW-P	03-13-081	132Q- 05-040	REP-P	03-13-082	132Q-108-040	AMD-P	03-13-082
132Q- 02-270	NEW-P	03-13-081	132Q- 05-050	REP-P	03-13-082	132Q-108-050	AMD-P	03-13-082
132Q- 02-280	NEW-P	03-13-081	132Q- 05-060	REP-P	03-13-082	132R- 01-010	AMD-P	03-11-006
132Q- 02-290	NEW-P	03-13-081	132Q- 05-060	REP-P	03-13-082	132R- 02-040	AMD-P	03-11-006
132Q- 02-300	NEW-P	03-13-081	132Q- 05-070	REP-P	03-13-082	132R- 02-080	AMD-P	03-11-006
132Q- 02-310	NEW-P	03-13-081	132Q- 05-080	REP-P	03-13-082	132R- 04	AMD-P	03-11-006
132Q- 02-320	NEW-P	03-13-081	132Q- 05-090	REP-P	03-13-082	132R- 04-010	AMD-P	03-11-006
132Q- 02-330	NEW-P	03-13-081	132Q- 05-100	REP-P	03-13-082	132R- 04-015	NEW-P	03-11-006
132Q- 02-340	NEW-P	03-13-081	132Q- 05-110	REP-P	03-13-082	132R- 04-017	NEW-P	03-11-006
132Q- 02-350	NEW-P	03-13-081	132Q- 05-120	REP-P	03-13-082	132R- 04-019	NEW-P	03-11-006
132Q- 02-360	NEW-P	03-13-081	132Q- 06	PREP	03-09-094	132R- 04-020	REP-P	03-11-006
132Q- 02-370	NEW-P	03-13-081	132Q- 06-010	REP-P	03-13-082	132R- 04-030	REP-P	03-11-006
			132Q- 06-015	REP-P	03-13-082	132R- 04-035	REP-P	03-11-006
			132Q- 06-016	REP-P	03-13-082	132R- 04-040	AMD-P	03-11-006
			132Q- 06-020	REP-P	03-13-082			

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132R-04-042	NEW-P	03-11-006	132R-190-010	AMD-P	03-11-006	173-26-190	REP-P	03-13-108
132R-04-047	NEW-P	03-11-006	132R-190-020	AMD-P	03-11-006	173-26-191	NEW-P	03-13-108
132R-04-050	REP-P	03-11-006	132R-190-030	AMD-P	03-11-006	173-26-200	REP-P	03-13-108
132R-04-055	REP-P	03-11-006	132R-190-035	AMD-P	03-11-006	173-26-201	NEW-P	03-13-108
132R-04-056	NEW-P	03-11-006	132R-190-040	AMD-P	03-11-006	173-26-210	REP-P	03-13-108
132R-04-057	NEW-P	03-11-006	132R-190-050	AMD-P	03-11-006	173-26-211	NEW-P	03-13-108
132R-04-060	REP-P	03-11-006	132R-190-070	AMD-P	03-11-006	173-26-220	REP-P	03-13-108
132R-04-063	NEW-P	03-11-006	132R-190-100	AMD-P	03-11-006	173-26-221	NEW-P	03-13-108
132R-04-064	NEW-P	03-11-006	132R-190-110	AMD-P	03-11-006	173-26-230	REP-P	03-13-108
132R-04-067	NEW-P	03-11-006	132R-200-010	AMD-P	03-11-006	173-26-231	NEW-P	03-13-108
132R-04-070	REP-P	03-11-006	132X-60-065	AMD	03-03-089	173-26-240	REP-P	03-13-108
132R-04-080	REP-P	03-11-006	136-60-010	AMD	03-05-009	173-26-241	NEW-P	03-13-108
132R-04-090	REP-P	03-11-006	136-60-020	AMD	03-05-009	173-26-250	REP-P	03-13-108
132R-04-100	AMD-P	03-11-006	136-60-030	AMD	03-05-009	173-26-251	NEW-P	03-13-108
132R-04-110	REP-P	03-11-006	136-60-040	AMD	03-05-009	173-26-270	REP-P	03-13-108
132R-04-112	NEW-P	03-11-006	136-60-050	AMD	03-05-009	173-26-280	REP-P	03-13-108
132R-04-115	NEW-P	03-11-006	136-60-060	AMD	03-05-009	173-26-290	REP-P	03-13-108
132R-04-117	NEW-P	03-11-006	136-150-023	AMD	03-05-010	173-26-300	REP-P	03-13-108
132R-04-120	REP-P	03-11-006	136-150-024	REP	03-05-010	173-26-310	REP-P	03-13-108
132R-04-130	AMD-P	03-11-006	136-150-030	AMD	03-05-010	173-26-320	REP-P	03-13-108
132R-04-140	AMD-P	03-11-006	136-150-040	AMD	03-05-010	173-26-330	REP-P	03-13-108
132R-04-150	AMD-P	03-11-006	136-150-050	NEW	03-05-010	173-26-340	REP-P	03-13-108
132R-04-160	AMD-P	03-11-006	136-150-060	NEW	03-05-010	173-26-350	REP-P	03-13-108
132R-04-165	NEW-P	03-11-006	136-161-080	AMD-P	03-05-008	173-157-010	NEW	03-03-081
132R-04-170	AMD-P	03-11-006	136-161-080	AMD	03-11-046	173-157-020	NEW	03-03-081
132R-05-010	AMD-P	03-11-006	136-163-030	AMD	03-05-011	173-157-030	NEW	03-03-081
132R-12-010	AMD-P	03-11-006	139-05-200	PREP	03-11-055	173-157-040	NEW	03-03-081
132R-12-020	AMD-P	03-11-006	139-05-210	AMD	03-07-099	173-157-050	NEW	03-03-081
132R-116-070	AMD-P	03-11-006	139-05-820	AMD	03-07-099	173-157-100	NEW	03-03-081
132R-116-090	AMD-P	03-11-006	139-05-915	AMD-C	03-03-091	173-157-110	NEW	03-03-081
132R-117	AMD-P	03-11-006	139-05-915	AMD	03-07-100	173-157-120	NEW	03-03-081
132R-117-010	AMD-P	03-11-006	139-05-925	PREP	03-11-056	173-157-130	NEW	03-03-081
132R-117-020	NEW-P	03-11-006	139-10-215	PREP	03-05-090	173-157-140	NEW	03-03-081
132R-118-010	AMD-P	03-11-006	139-10-215	AMD-P	03-09-010	173-157-150	NEW	03-03-081
132R-118-020	AMD-P	03-11-006	139-10-215	AMD	03-13-098	173-157-160	NEW	03-03-081
132R-118-030	AMD-P	03-11-006	139-30-015	AMD	03-07-098	173-157-170	NEW	03-03-081
132R-118-040	AMD-P	03-11-006	139-35-015	AMD	03-07-098	173-157-180	NEW	03-03-081
132R-136	AMD-P	03-11-006	172-64-010	NEW-P	03-11-099	173-157-200	NEW	03-03-081
132R-136-010	AMD-P	03-11-006	172-64-020	NEW-P	03-11-099	173-157-210	NEW	03-03-081
132R-136-030	AMD-P	03-11-006	172-64-030	NEW-P	03-11-099	173-157-220	NEW	03-03-081
132R-136-035	NEW-P	03-11-006	172-64-040	NEW-P	03-11-099	173-157-230	NEW	03-03-081
132R-136-055	NEW-P	03-11-006	172-64-050	NEW-P	03-11-099	173-170-010	AMD	03-07-104
132R-136-060	NEW-P	03-11-006	172-64-060	NEW-P	03-11-099	173-170-020	AMD	03-07-104
132R-136-070	NEW-P	03-11-006	172-64-070	NEW-P	03-11-099	173-170-040	AMD	03-07-104
132R-136-080	NEW-P	03-11-006	172-64-080	NEW-P	03-11-099	173-170-050	AMD	03-07-104
132R-144-010	AMD-P	03-11-006	172-64-090	NEW-P	03-11-099	173-170-070	AMD	03-07-104
132R-144-020	AMD-P	03-11-006	172-64-100	NEW-P	03-11-099	173-170-080	AMD	03-07-104
132R-150-030	REP-P	03-11-006	172-64-110	NEW-P	03-11-099	173-170-090	AMD	03-07-104
132R-150-050	AMD-P	03-11-006	172-64-120	NEW-P	03-11-099	173-170-100	AMD	03-07-104
132R-158-010	AMD-P	03-11-006	172-64-130	NEW-P	03-11-099	173-183-820	AMD-X	03-06-036
132R-175-010	AMD-P	03-11-006	172-64-140	NEW-P	03-11-099	173-183-820	AMD	03-11-010
132R-175-020	AMD-P	03-11-006	173-06-120	AMD-X	03-04-081	173-183-830	AMD-X	03-06-036
132R-175-030	AMD-P	03-11-006	173-06-120	AMD	03-10-019	173-183-830	AMD	03-11-010
132R-175-050	AMD-P	03-11-006	173-26	PREP	03-03-019	173-183-850	AMD-X	03-06-036
132R-175-060	AMD-P	03-11-006	173-26-010	AMD-P	03-13-108	173-183-850	AMD	03-11-010
132R-175-080	AMD-P	03-11-006	173-26-020	AMD-P	03-13-108	173-183-860	AMD-X	03-06-036
132R-175-090	AMD-P	03-11-006	173-26-170	REP-P	03-13-108	173-183-860	AMD	03-11-010
132R-175-100	AMD-P	03-11-006	173-26-171	NEW-P	03-13-108	173-201A	AMD-S	03-04-082
132R-175-110	AMD-P	03-11-006	173-26-176	NEW-P	03-13-108	173-201A-010	AMD	03-14-129
132R-175-120	AMD-P	03-11-006	173-26-180	REP-P	03-13-108	173-201A-020	AMD	03-14-129
132R-175-130	AMD-P	03-11-006	173-26-181	NEW-P	03-13-108	173-201A-030	REP	03-14-129
132R-175-140	AMD-P	03-11-006	173-26-186	NEW-P	03-13-108	173-201A-040	AMD	03-14-129

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
173-201A-040	DECOD	03-14-129	173-303-578	AMD	03-07-049	173-434-110	AMD-P	03-13-077
173-201A-050	DECOD	03-14-129	173-303-620	AMD	03-07-049	173-434-120	REP-P	03-13-077
173-201A-060	REP	03-14-129	173-303-645	AMD	03-07-049	173-434-130	AMD-P	03-13-077
173-201A-070	REP	03-14-129	173-303-646	AMD	03-07-049	173-434-160	AMD-P	03-13-077
173-201A-080	REP	03-14-129	173-303-690	AMD	03-07-049	173-434-170	AMD-P	03-13-077
173-201A-100	AMD	03-14-129	173-303-691	AMD	03-07-049	173-434-190	AMD-P	03-13-077
173-201A-100	DECOD	03-14-129	173-303-692	AMD	03-07-049	173-434-200	AMD-P	03-13-077
173-201A-110	AMD	03-14-129	173-303-806	AMD	03-07-049	173-503	PREP	03-10-011
173-201A-110	DECOD	03-14-129	173-303-830	AMD	03-07-049	173-503	PREP	03-14-023
173-201A-120	REP	03-14-129	173-314-010	REP-X	03-05-095	180- 10-001	REP-W	03-03-060
173-201A-130	REP	03-14-129	173-314-010	REP	03-10-020	180- 10-003	REP-W	03-03-060
173-201A-140	REP	03-14-129	173-314-100	REP-X	03-05-095	180- 10-005	REP-W	03-03-060
173-201A-150	DECOD	03-14-129	173-314-100	REP	03-10-020	180- 10-007	REP-W	03-03-060
173-201A-160	AMD	03-14-129	173-314-200	REP-X	03-05-095	180- 10-010	REP-W	03-03-060
173-201A-160	DECOD	03-14-129	173-314-200	REP	03-10-020	180- 10-015	REP-W	03-03-060
173-201A-170	AMD	03-14-129	173-314-210	REP-X	03-05-095	180- 10-020	REP-W	03-03-060
173-201A-170	DECOD	03-14-129	173-314-210	REP	03-10-020	180- 10-025	REP-W	03-03-060
173-201A-180	DECOD	03-14-129	173-314-220	REP-X	03-05-095	180- 10-030	REP-W	03-03-060
173-201A-200	NEW	03-14-129	173-314-220	REP	03-10-020	180- 10-035	REP-W	03-03-060
173-201A-210	NEW	03-14-129	173-314-300	REP-X	03-05-095	180- 10-040	REP-W	03-03-060
173-201A-230	NEW	03-14-129	173-314-300	REP	03-10-020	180- 10-045	REP-W	03-03-060
173-201A-240	RECOD	03-14-129	173-314-310	REP-X	03-05-095	180- 24-00701	PREP	03-12-037
173-201A-250	RECOD	03-14-129	173-314-310	REP	03-10-020	180- 24-00701	AMD-E	03-14-117
173-201A-260	NEW	03-14-129	173-314-320	REP-X	03-05-095	180- 24-215	PREP	03-12-037
173-201A-300	NEW	03-14-129	173-314-320	REP	03-10-020	180- 24-215	AMD-E	03-14-117
173-201A-310	NEW	03-14-129	173-314-330	REP-X	03-05-095	180- 24-220	PREP	03-12-037
173-201A-320	NEW	03-14-129	173-314-330	REP	03-10-020	180- 24-220	AMD-E	03-14-117
173-201A-330	NEW	03-14-129	173-314-340	REP-X	03-05-095	180- 25	PREP	03-10-077
173-201A-400	RECOD	03-14-129	173-314-340	REP	03-10-020	180- 26	PREP	03-10-077
173-201A-410	RECOD	03-14-129	173-350-010	NEW	03-03-043	180- 27	PREP	03-10-077
173-201A-420	NEW	03-14-129	173-350-020	NEW	03-03-043	180- 29	PREP	03-10-077
173-201A-430	NEW	03-14-129	173-350-025	NEW	03-03-043	180- 31	PREP	03-10-077
173-201A-440	NEW	03-14-129	173-350-030	NEW	03-03-043	180- 32	PREP	03-10-077
173-201A-450	NEW	03-14-129	173-350-040	NEW	03-03-043	180- 33	PREP	03-10-077
173-201A-500	RECOD	03-14-129	173-350-100	NEW	03-03-043	180- 33-035	AMD-E	03-14-116
173-201A-510	RECOD	03-14-129	173-350-200	NEW	03-03-043	180- 38-065	AMD-W	03-03-062
173-201A-520	RECOD	03-14-129	173-350-210	NEW	03-03-043	180- 38-065	REP	03-13-079
173-201A-530	RECOD	03-14-129	173-350-220	NEW	03-03-043	180- 38-080	NEW	03-13-079
173-201A-600	NEW	03-14-129	173-350-230	NEW	03-03-043	180- 46	PREP	03-10-074
173-201A-602	NEW	03-14-129	173-350-240	NEW	03-03-043	180- 50-315	AMD	03-04-054
173-201A-610	NEW	03-14-129	173-350-300	NEW	03-03-043	180- 51-063	PREP	03-04-110
173-201A-612	NEW	03-14-129	173-350-310	NEW	03-03-043	180- 51-063	AMD-E	03-09-018
173-303-045	AMD	03-07-049	173-350-320	NEW	03-03-043	180- 51-063	AMD-P	03-09-028
173-303-070	AMD	03-07-049	173-350-330	NEW	03-03-043	180- 51-063	AMD	03-14-118
173-303-071	AMD-E	03-03-047	173-350-350	NEW	03-03-043	180- 55-032	NEW-W	03-03-061
173-303-071	AMD	03-07-049	173-350-360	NEW	03-03-043	180- 55-034	PREP	03-04-112
173-303-100	AMD	03-07-049	173-350-400	NEW	03-03-043	180- 55-150	PREP	03-04-111
173-303-110	AMD	03-07-049	173-350-410	NEW	03-03-043	180- 57-050	AMD	03-04-055
173-303-140	AMD	03-07-049	173-350-490	NEW	03-03-043	180- 57-055	AMD	03-04-055
173-303-170	AMD	03-07-049	173-350-500	NEW	03-03-043	180- 57-070	AMD	03-04-055
173-303-200	AMD	03-07-049	173-350-600	NEW	03-03-043	180- 72	PREP	03-10-075
173-303-283	AMD	03-07-049	173-350-600	NEW	03-04-103	180- 77	PREP	03-10-076
173-303-380	AMD	03-07-049	173-350-700	NEW	03-03-043	180- 77-068	AMD-P	03-10-070
173-303-390	AMD	03-07-049	173-350-710	NEW	03-03-043	180- 77-068	AMD	03-14-119
173-303-400	AMD	03-07-049	173-350-715	NEW	03-03-043	180- 77A	PREP	03-10-076
173-303-500	AMD	03-07-049	173-350-900	NEW	03-03-043	180- 78A	PREP	03-10-076
173-303-505	AMD	03-07-049	173-350-990	NEW	03-03-043	180- 78A-250	PREP	03-09-086
173-303-506	AMD	03-07-049	173-434-020	AMD-P	03-13-077	180- 78A-250	AMD-P	03-14-113
173-303-510	AMD	03-07-049	173-434-030	AMD-P	03-13-077	180- 78A-264	PREP	03-09-085
173-303-520	AMD	03-07-049	173-434-050	REP-P	03-13-077	180- 78A-264	AMD-P	03-14-111
173-303-522	AMD	03-07-049	173-434-070	REP-P	03-13-077	180- 78A-505	AMD	03-04-025
173-303-525	AMD	03-07-049	173-434-100	REP-P	03-13-077	180- 78A-505	PREP	03-09-020

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180- 78A-505	AMD-E	03-12-039	180- 90-133	REP	03-04-053	197- 11-850	AMD-P	03-03-082
180- 78A-535	AMD	03-04-024	180- 90-135	REP	03-04-053	197- 11-855	AMD-P	03-03-082
180- 78A-700	NEW	03-04-026	180- 90-137	REP	03-04-053	197- 11-902	AMD-P	03-03-082
180- 79A	PREP	03-10-076	180- 90-141	AMD	03-04-053	197- 11-904	AMD-P	03-03-082
180- 79A-117	PREP	03-07-004	180- 90-160	AMD	03-04-053	197- 11-908	AMD-P	03-03-082
180- 79A-117	AMD-E	03-08-060	180- 95	PREP	03-10-072	204- 82A-060	AMD-P	03-08-089
180- 79A-117	AMD-P	03-09-029	180- 96	PREP	03-10-073	204- 82A-060	AMD	03-12-013
180- 79A-117	AMD	03-14-120	182- 08-015	AMD-P	03-13-138	212- 12-200	NEW	03-06-063
180- 79A-127	AMD-X	03-10-071	182- 08-020	REP-P	03-13-138	212- 12-210	NEW	03-06-063
180- 79A-140	PREP	03-09-019	182- 08-095	AMD-P	03-13-138	212- 12-220	NEW	03-06-063
180- 79A-140	AMD-E	03-12-038	182- 08-120	AMD-P	03-13-138	212- 12-230	NEW	03-06-063
180- 79A-150	PREP	03-04-109	182- 08-125	AMD-P	03-13-138	212- 12-240	NEW	03-06-063
180- 79A-155	AMD	03-04-022	182- 08-175	AMD-P	03-13-138	212- 12-250	NEW	03-06-063
180- 79A-223	PREP	03-12-036	182- 08-180	AMD-P	03-13-138	212- 12-260	NEW	03-06-063
180- 79A-231	AMD-P	03-04-019	182- 08-190	AMD-P	03-13-138	212- 12-270	NEW	03-06-063
180- 79A-231	AMD-P	03-09-023	182- 08-196	NEW-P	03-13-138	212- 12-280	NEW	03-06-063
180- 79A-231	AMD	03-12-035	182- 08-210	AMD-P	03-13-138	212- 12-290	NEW	03-06-063
180- 79A-231	AMD-E	03-12-038	182- 08-220	AMD-P	03-13-138	212- 12-300	NEW	03-06-063
180- 79A-231	AMD	03-14-115	182- 12-111	AMD-P	03-13-138	212- 12-310	NEW	03-06-063
180- 79A-308	PREP	03-09-021	182- 12-115	AMD-P	03-13-138	212- 12-320	NEW	03-06-063
180- 79A-308	AMD-P	03-14-112	182- 12-117	AMD-P	03-13-138	212- 12-330	NEW	03-06-063
180- 81	PREP	03-10-076	182- 12-119	AMD-P	03-13-138	212- 12-340	NEW	03-06-063
180- 82	PREP	03-10-076	182- 12-132	AMD-P	03-13-138	212- 12-350	NEW	03-06-063
180- 82-105	AMD-E	03-14-121	182- 12-145	AMD-P	03-13-138	212- 12-360	NEW	03-06-063
180- 82-110	AMD	03-04-023	182- 12-220	AMD-P	03-13-138	212- 12-370	NEW	03-06-063
180- 82-115	PREP	03-09-084	182- 25-010	AMD-P	03-14-097	212- 12-380	NEW	03-06-063
180- 82-204	PREP	03-04-020	182- 25-030	AMD-P	03-05-094	212- 12-390	NEW	03-06-063
180- 82-204	AMD-E	03-04-027	182- 25-035	NEW-P	03-05-094	212- 12-400	NEW	03-06-063
180- 82-204	AMD-P	03-09-024	182- 50	PREP	03-14-096	212- 12-410	NEW	03-06-063
180- 82-204	AMD-E	03-09-025	192- 16-033	REP	03-06-038	212- 12-420	NEW-W	03-06-071
180- 82-204	AMD	03-14-114	192- 16-036	REP	03-06-038	220- 12-020	AMD	03-05-057
180- 82-205	PREP	03-09-022	192- 16-040	REP	03-06-038	220- 16-270	AMD-P	03-13-147
180- 82A-204	PREP	03-04-020	192- 16-042	REP	03-06-038	220- 16-27000A	NEW-E	03-09-081
180- 82A-204	AMD-E	03-04-028	192- 16-045	REP	03-06-038	220- 16-290	NEW	03-05-061
180- 82A-204	AMD-P	03-09-024	192- 16-047	REP	03-06-038	220- 20-016	AMD	03-10-010
180- 82A-204	AMD-E	03-09-025	192- 36-010	PREP	03-11-072	220- 20-080	NEW	03-05-059
180- 82A-204	AMD	03-14-114	192- 36-020	PREP	03-11-072	220- 20-110	NEW-P	03-12-076
180- 82A-206	PREP	03-04-021	192- 36-025	PREP	03-11-072	220- 22-40000E	NEW-E	03-13-067
180- 82A-206	AMD-P	03-09-026	192-240-010	NEW	03-06-038	220- 24-04000I	NEW-E	03-10-005
180- 82A-206	AMD-E	03-09-027	192-240-015	NEW	03-06-038	220- 24-04000I	REP-E	03-13-014
180- 82A-206	AMD	03-14-122	192-240-020	NEW	03-06-038	220- 24-04000J	NEW-E	03-14-049
180- 82A-215	PREP	03-04-021	192-240-025	NEW	03-06-038	220- 24-04000J	REP-E	03-14-049
180- 82A-215	AMD-P	03-09-026	192-240-030	NEW	03-06-038	220- 24-04000K	NEW-E	03-14-084
180- 82A-215	AMD-E	03-09-027	192-240-035	NEW	03-06-038	220- 24-04000K	REP-E	03-14-084
180- 82A-215	AMD	03-14-122	192-240-040	NEW	03-06-038	220- 32-05100A	NEW-E	03-07-044
180- 83	PREP	03-10-076	192-240-045	NEW	03-06-038	220- 32-05100A	REP-E	03-07-044
180- 85	PREP	03-10-076	196- 12	PREP	03-09-032	220- 32-05100B	NEW-E	03-10-003
180- 86	PREP	03-10-076	196- 16	PREP	03-09-032	220- 32-05100B	REP-E	03-10-003
180- 86-100	PREP	03-09-082	196- 20	PREP	03-09-032	220- 32-05100B	REP-E	03-12-002
180- 86-100	PREP	03-10-029	196- 21	PREP	03-09-032	220- 32-05100C	NEW-E	03-12-002
180- 86-116	PREP	03-09-083	196- 23-070	PREP	03-13-012	220- 32-05100C	REP-E	03-12-023
180- 86-116	PREP	03-10-028	196- 24	PREP	03-09-032	220- 32-05100D	NEW-E	03-12-023
180- 87	PREP	03-10-076	196- 25	PREP	03-09-032	220- 32-05100Z	REP-E	03-07-044
180- 90-105	AMD	03-04-053	196- 26A	PREP	03-09-032	220- 32-05500F	NEW-E	03-08-047
180- 90-110	REP	03-04-053	196- 27A	PREP	03-14-024	220- 32-05700S	NEW-E	03-13-017
180- 90-112	AMD	03-04-053	196- 30	PREP	03-03-111	220- 32-05700S	REP-E	03-13-017
180- 90-115	REP	03-04-053	197- 11-070	AMD-P	03-03-082	220- 32-06000A	NEW-E	03-10-003
180- 90-119	REP	03-04-053	197- 11-250	AMD-P	03-03-082	220- 32-06000A	REP-E	03-10-003
180- 90-120	REP	03-04-053	197- 11-310	AMD-P	03-03-082	220- 33-01000A	NEW-E	03-05-036
180- 90-123	REP	03-04-053	197- 11-800	AMD-P	03-03-082	220- 33-01000A	REP-E	03-05-036
180- 90-125	REP	03-04-053	197- 11-820	AMD-P	03-03-082	220- 33-01000A	REP-E	03-06-007
180- 90-130	AMD	03-04-053	197- 11-835	AMD-P	03-03-082	220- 33-01000B	NEW-E	03-06-007

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-33-01000B	REP-E	03-06-007	220-52-04000N	REP-E	03-13-067	220-56-12800F	REP-E	03-10-039
220-33-01000C	NEW-E	03-08-004	220-52-04000P	NEW-E	03-14-085	220-56-129	NEW	03-05-057
220-33-01000C	REP-E	03-08-004	220-52-04000P	REP-E	03-14-085	220-56-175	AMD	03-05-057
220-33-01000D	NEW-E	03-09-080	220-52-04600N	REP-E	03-04-046	220-56-18000B	NEW-E	03-10-039
220-33-01000D	REP-E	03-09-080	220-52-04600P	NEW-E	03-04-007	220-56-18000B	REP-E	03-10-039
220-33-01000D	REP-E	03-10-006	220-52-04600P	REP-E	03-04-007	220-56-19500K	NEW-E	03-10-039
220-33-01000E	NEW-E	03-10-042	220-52-04600P	REP-E	03-07-014	220-56-19500K	REP-E	03-10-039
220-33-01000E	REP-E	03-10-042	220-52-04600Q	NEW-E	03-04-046	220-56-230	AMD	03-05-057
220-33-01000Y	REP-E	03-04-033	220-52-04600Q	REP-E	03-07-002	220-56-23000A	NEW-E	03-07-032
220-33-01000Z	NEW-E	03-04-033	220-52-04600R	NEW-E	03-05-006	220-56-23000A	REP-E	03-07-032
220-33-01000Z	REP-E	03-04-033	220-52-04600R	REP-E	03-06-020	220-56-235	AMD	03-05-057
220-33-01000Z	REP-E	03-04-078	220-52-04600S	NEW-E	03-05-047	220-56-235	AMD-P	03-13-083
220-33-03000T	NEW-E	03-11-002	220-52-04600S	REP-E	03-10-022	220-56-23500Q	NEW-E	03-07-032
220-33-03000T	REP-E	03-11-002	220-52-04600T	NEW-E	03-06-020	220-56-23500Q	REP-E	03-07-032
220-33-04000S	REP-E	03-07-015	220-52-04600T	REP-E	03-10-022	220-56-23500Q	REP-E	03-09-123
220-33-04000T	NEW-E	03-07-015	220-52-04600U	NEW-E	03-07-002	220-56-23500R	NEW-E	03-09-123
220-33-04000T	REP-E	03-07-015	220-52-04600U	REP-E	03-08-048	220-56-250	AMD	03-05-057
220-33-060	AMD	03-05-062	220-52-04600V	NEW-E	03-07-014	220-56-25000E	NEW-E	03-07-032
220-36-023	AMD-X	03-13-106	220-52-04600V	REP-E	03-07-014	220-56-25000E	REP-E	03-07-032
220-36-03001	AMD	03-05-062	220-52-04600V	REP-E	03-10-021	220-56-255	AMD	03-05-057
220-36-03001A	NEW-E	03-05-002	220-52-04600W	NEW-E	03-08-048	220-56-25500E	NEW-E	03-09-061
220-36-03001A	REP-E	03-05-002	220-52-04600X	NEW-E	03-10-021	220-56-25500E	REP-E	03-11-026
220-40-02100X	NEW-E	03-14-086	220-52-04600X	REP-E	03-10-021	220-56-25500F	NEW-E	03-11-026
220-40-02100X	REP-E	03-14-086	220-52-04600Y	NEW-E	03-13-067	220-56-25500F	REP-E	03-11-081
220-40-027	AMD-X	03-13-106	220-52-04600Y	REP-E	03-13-067	220-56-25500G	NEW-E	03-11-081
220-40-030	AMD	03-05-062	220-52-04600Z	NEW-E	03-14-085	220-56-25500G	REP-E	03-13-019
220-44-050	AMD-P	03-02-105	220-52-04600Z	REP-E	03-14-085	220-56-25500H	NEW-E	03-13-019
220-44-050	AMD	03-05-078	220-52-050	AMD	03-05-060	220-56-25500H	REP-E	03-13-070
220-44-05000R	REP-E	03-04-058	220-52-051	AMD	03-05-064	220-56-25500I	NEW-E	03-13-070
220-44-05000S	NEW-E	03-04-058	220-52-05100P	NEW-E	03-09-013	220-56-265	AMD	03-05-057
220-44-05000S	REP-E	03-05-027	220-52-05100P	REP-E	03-09-081	220-56-27000N	REP-E	03-05-025
220-44-05000T	NEW-E	03-05-027	220-52-05100Q	NEW-E	03-09-081	220-56-27000P	NEW-E	03-05-025
220-44-05000T	REP-E	03-07-024	220-52-05100Q	REP-E	03-11-008	220-56-27000P	REP-E	03-05-025
220-44-05000U	NEW-E	03-07-024	220-52-05100R	NEW-E	03-11-008	220-56-282	AMD-X	03-13-011
220-44-05000U	REP-E	03-13-008	220-52-05100R	REP-E	03-12-016	220-56-282	AMD-P	03-13-086
220-44-05000V	NEW-E	03-13-008	220-52-05100S	NEW-E	03-12-016	220-56-320	AMD	03-05-057
220-47-301	AMD	03-05-076	220-52-05100S	REP-E	03-13-084	220-56-325	AMD	03-05-057
220-47-302	AMD-X	03-13-145	220-52-05100T	NEW-E	03-13-084	220-56-32500C	NEW-E	03-09-014
220-47-307	AMD-X	03-13-145	220-52-05100T	REP-E	03-14-048	220-56-32500C	REP-E	03-10-034
220-47-311	AMD-X	03-13-145	220-52-05100U	NEW-E	03-14-048	220-56-32500D	NEW-E	03-10-034
220-47-325	AMD-X	03-13-145	220-52-05100U	REP-E	03-14-149	220-56-32500D	REP-E	03-11-003
220-47-401	AMD-X	03-13-145	220-52-05100V	NEW-E	03-14-149	220-56-32500E	NEW-E	03-11-003
220-47-411	AMD-P	03-13-146	220-52-066	AMD-P	03-06-064	220-56-32500E	REP-E	03-12-079
220-47-427	AMD-X	03-13-145	220-52-071	AMD-P	03-13-085	220-56-32500F	NEW-E	03-12-079
220-47-428	AMD-X	03-13-145	220-52-07100A	NEW-E	03-14-031	220-56-32500F	REP-E	03-13-038
220-47-430	AMD-X	03-13-145	220-52-07300A	REP-E	03-03-002	220-56-32500G	NEW-E	03-13-038
220-48-01500R	NEW-E	03-13-025	220-52-07300B	NEW-E	03-03-002	220-56-32500G	REP-E	03-13-107
220-48-029	AMD	03-05-063	220-52-07300B	REP-E	03-03-068	220-56-32500H	NEW-E	03-13-107
220-48-02900B	NEW-E	03-13-078	220-52-07300C	NEW-E	03-03-068	220-56-32500H	REP-E	03-14-150
220-48-032	AMD	03-05-063	220-52-07300C	REP-E	03-06-001	220-56-32500I	NEW-E	03-14-150
220-48-03200A	NEW-E	03-13-078	220-52-07300D	NEW-E	03-06-001	220-56-33000A	NEW-E	03-12-032
220-52-018	AMD-P	03-13-140	220-52-07300D	REP-E	03-06-001	220-56-33000A	REP-E	03-12-060
220-52-019	AMD-P	03-06-065	220-52-07300E	NEW-E	03-11-080	220-56-33000B	NEW-E	03-12-060
220-52-019	AMD	03-10-008	220-52-075	AMD	03-05-064	220-56-33000B	REP-E	03-13-039
220-52-01900A	NEW-E	03-09-072	220-55-001	AMD-P	03-06-079	220-56-33000C	NEW-E	03-13-039
220-52-020	AMD-P	03-13-032	220-55-060	REP-P	03-06-079	220-56-33000C	REP-E	03-13-066
220-52-020	AMD-P	03-13-140	220-55-060	REP	03-10-040	220-56-33000D	NEW-E	03-13-066
220-52-02000A	NEW-E	03-10-002	220-56-100	AMD-X	03-13-144	220-56-33000R	REP-E	03-05-026
220-52-035	AMD-P	03-13-147	220-56-10000A	NEW-E	03-10-039	220-56-33000S	NEW-E	03-05-005
220-52-03500A	NEW-E	03-09-081	220-56-105	AMD	03-05-057	220-56-33000S	REP-E	03-06-020
220-52-04000M	REP-E	03-06-030	220-56-126	AMD-X	03-14-069	220-56-33000T	NEW-E	03-05-026
220-52-04000N	NEW-E	03-13-067	220-56-12800F	NEW-E	03-10-039	220-56-33000T	REP-E	03-07-003

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-56-33000U	NEW-E	03-06-020	220-88C-04000	NEW-E	03-11-027	230-40-010	AMD-P	03-13-135
220-56-33000U	REP-E	03-10-022	220-88C-04000	REP-E	03-11-027	230-40-040	AMD-P	03-13-135
220-56-33000V	NEW-E	03-07-003	220-88C-050	AMD-P	03-08-100	230-40-120	AMD-P	03-13-137
220-56-33000V	REP-E	03-08-049	220-88C-050	AMD	03-13-002	230-40-125	REP-P	03-13-135
220-56-33000W	NEW-E	03-08-049	220-88D-010	NEW-P	03-13-140	230-40-550	AMD-P	03-05-087
220-56-33000W	REP-E	03-09-060	220-88D-020	NEW-P	03-13-140	230-40-550	AMD	03-09-076
220-56-33000X	NEW-E	03-09-060	220-88D-030	NEW-P	03-13-140	230-40-625	AMD-P	03-05-087
220-56-33000X	REP-E	03-11-023	220-88D-040	NEW-P	03-13-140	230-40-625	AMD	03-09-076
220-56-33000Y	NEW-E	03-11-023	220-88D-050	NEW-P	03-13-140	230-40-803	REP-P	03-13-137
220-56-33000Y	REP-E	03-11-039	220-100-010	AMD-P	03-06-080	230-40-805	AMD-P	03-13-135
220-56-33000Z	NEW-E	03-11-039	220-100-010	AMD	03-10-038	230-40-815	AMD-P	03-05-087
220-56-33000Z	REP-E	03-12-032	220-100-020	AMD-P	03-06-080	230-40-815	AMD	03-09-076
220-56-350	AMD	03-05-057	220-100-020	AMD	03-10-038	230-40-821	AMD-P	03-13-135
220-56-35000P	NEW-E	03-07-025	220-100-027	NEW-P	03-06-080	230-40-825	AMD-P	03-05-087
220-56-35000P	REP-E	03-07-025	220-100-027	NEW	03-10-038	230-40-825	AMD	03-09-076
220-56-370	REP-P	03-06-079	220-100-030	AMD-P	03-06-080	230-40-825	AMD-P	03-13-137
220-56-380	AMD	03-05-057	220-100-030	AMD	03-10-038	230-40-833	AMD-P	03-13-137
220-69-240	AMD	03-05-059	220-100-040	AMD-P	03-06-080	230-40-860	AMD-P	03-05-087
220-69-240	AMD	03-05-064	220-100-040	AMD	03-10-038	230-40-860	AMD	03-09-076
220-69-240	AMD-P	03-13-030	220-100-045	AMD-P	03-06-080	230-40-875	AMD-P	03-05-087
220-69-240	AMD-P	03-13-087	220-100-045	AMD	03-10-038	230-40-875	AMD	03-09-076
220-69-24000F	NEW-E	03-11-080	220-100-055	AMD-P	03-06-080	230-40-895	AMD-P	03-05-087
220-69-241	AMD	03-05-059	220-100-055	AMD	03-10-038	230-40-895	AMD	03-09-076
220-69-27300A	NEW-E	03-12-024	220-100-057	NEW-P	03-06-080	232-12-045	NEW-P	03-06-104
220-72-002	AMD-P	03-06-109	220-100-057	NEW	03-10-038	232-12-045	NEW	03-13-047
220-72-002	AMD	03-10-041	220-100-058	NEW-P	03-06-080	232-12-051	AMD-P	03-06-104
220-72-011	AMD-P	03-06-109	220-100-058	NEW	03-10-038	232-12-051	AMD	03-13-047
220-72-011	AMD	03-10-041	220-100-060	AMD-P	03-06-080	232-12-054	AMD-P	03-06-104
220-72-015	AMD-P	03-06-109	220-100-060	AMD	03-10-038	232-12-054	AMD	03-13-047
220-72-015	AMD	03-10-041	220-100-065	AMD-P	03-06-080	232-12-055	AMD-P	03-13-141
220-72-070	AMD-P	03-06-109	220-100-065	AMD	03-10-038	232-12-068	AMD-P	03-06-106
220-72-070	AMD	03-10-041	220-100-068	NEW-P	03-06-080	232-12-068	AMD	03-13-047
220-72-073	AMD-P	03-06-109	220-100-068	NEW	03-10-038	232-12-068	AMD-P	03-13-088
220-72-073	AMD	03-10-041	220-100-070	AMD-P	03-06-080	232-12-106	AMD	03-03-016
220-72-076	AMD-P	03-06-109	220-100-070	AMD	03-10-038	232-12-181	AMD	03-03-016
220-72-076	AMD	03-10-041	220-100-075	AMD-P	03-06-080	232-12-243	AMD-P	03-13-142
220-72-086	NEW-P	03-06-109	220-100-075	AMD	03-10-038	232-12-287	AMD-P	03-12-078
220-72-086	NEW	03-10-041	220-100-080	AMD-P	03-06-080	232-12-289	NEW-P	03-02-103
220-72-087	NEW-P	03-06-109	220-100-080	AMD	03-10-038	232-12-289	NEW	03-06-110
220-72-087	NEW	03-10-041	220-100-080	AMD	03-10-038	232-12-31500J	NEW-E	03-08-075
220-72-089	NEW-P	03-06-109	220-100-095	AMD-P	03-06-080	232-12-619	AMD-W	03-10-095
220-72-089	NEW	03-10-041	220-100-095	AMD	03-10-038	232-12-61900S	NEW-E	03-10-039
220-72-090	NEW-P	03-06-109	222-21-010	AMD	03-06-039	232-12-61900S	REP-E	03-10-039
220-72-090	NEW	03-10-041	222-21-030	AMD	03-06-039	232-12-828	AMD-P	03-06-079
220-72-092	NEW-P	03-06-109	222-21-035	AMD	03-06-039	232-12-828	AMD	03-10-040
220-72-092	NEW	03-10-041	222-21-040	AMD	03-06-039	232-16-600	AMD-P	03-13-115
220-88B-010	AMD-P	03-13-030	222-21-045	AMD	03-06-039	232-16-660	AMD-P	03-13-115
220-88B-020	AMD-P	03-13-030	222-21-050	AMD	03-06-039	232-16-740	AMD-P	03-13-115
220-88B-030	AMD-P	03-13-030	230-02-412	AMD-P	03-08-002	232-19-010	REP-P	03-06-080
220-88B-050	REP-P	03-13-030	230-02-412	AMD	03-11-042	232-19-010	REP	03-10-038
220-88C-020	AMD-P	03-08-100	230-04-110	AMD-P	03-08-002	232-19-015	REP-P	03-06-080
220-88C-020	AMD	03-13-002	230-04-110	AMD	03-11-042	232-19-015	REP	03-10-038
220-88C-02000	NEW-E	03-13-036	230-08-010	AMD-P	03-13-135	232-19-020	REP-P	03-06-080
220-88C-02000	REP-E	03-13-036	230-08-017	AMD	03-05-089	232-19-020	REP	03-10-038
220-88C-030	AMD-P	03-08-100	230-12-305	AMD-P	03-08-001	232-19-030	REP-P	03-06-080
220-88C-030	AMD	03-13-002	230-12-305	AMD	03-11-041	232-19-030	REP	03-10-038
220-88C-03000	NEW-E	03-13-036	230-12-315	AMD-P	03-08-002	232-19-040	REP-P	03-06-080
220-88C-03000	REP-E	03-13-036	230-12-315	AMD	03-11-042	232-19-040	REP	03-10-038
220-88C-040	AMD-P	03-08-100	230-12-316	NEW-P	03-08-002	232-19-050	REP-P	03-06-080
220-88C-040	AMD	03-13-002	230-12-316	NEW	03-11-042	232-19-050	REP	03-10-038
220-88C-04000	NEW-E	03-13-036	230-12-340	AMD-P	03-13-135	232-19-055	REP-P	03-06-080
220-88C-04000	REP-E	03-13-036	230-20-059	AMD-P	03-05-088	232-19-055	REP	03-10-038
			230-20-059	AMD	03-11-040			

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
232- 19-060	REP-P	03-06-080	232- 28-332	NEW	03-06-110	232- 28-61900I	REP-E	03-06-009
232- 19-060	REP	03-10-038	232- 28-332	AMD-P	03-13-118	232- 28-61900I	NEW-E	03-13-013
232- 19-070	REP-P	03-06-080	232- 28-333	NEW-P	03-02-103	232- 28-61900I	REP-E	03-13-013
232- 19-070	REP	03-10-038	232- 28-333	NEW	03-06-110	232- 28-61900J	NEW-E	03-06-008
232- 19-080	REP-P	03-06-080	232- 28-333	AMD-P	03-13-121	232- 28-61900J	REP-E	03-06-008
232- 19-080	REP	03-10-038	232- 28-334	NEW-P	03-02-103	232- 28-61900J	NEW-E	03-13-001
232- 19-090	REP-P	03-06-080	232- 28-334	NEW	03-06-110	232- 28-61900J	REP-E	03-13-001
232- 19-090	REP	03-10-038	232- 28-334	AMD-P	03-13-119	232- 28-61900K	NEW-E	03-06-028
232- 19-100	REP-P	03-06-080	232- 28-335	NEW-P	03-02-103	232- 28-61900K	REP-E	03-06-028
232- 19-100	REP	03-10-038	232- 28-335	NEW	03-06-110	232- 28-61900K	NEW-E	03-13-069
232- 19-110	REP-P	03-06-080	232- 28-335	AMD-P	03-13-120	232- 28-61900K	REP-E	03-14-028
232- 19-110	REP	03-10-038	232- 28-336	NEW-P	03-02-103	232- 28-61900L	NEW-E	03-07-001
232- 19-120	REP-P	03-06-080	232- 28-336	NEW	03-06-110	232- 28-61900L	REP-E	03-07-001
232- 19-120	REP	03-10-038	232- 28-337	NEW-P	03-06-112	232- 28-61900L	REP-E	03-11-037
232- 19-130	REP-P	03-06-080	232- 28-337	NEW	03-13-047	232- 28-61900L	NEW-E	03-13-068
232- 19-130	REP	03-10-038	232- 28-341	NEW-P	03-06-106	232- 28-61900L	REP-E	03-14-073
232- 19-140	REP-P	03-06-080	232- 28-341	NEW	03-13-047	232- 28-61900M	NEW-E	03-07-016
232- 19-140	REP	03-10-038	232- 28-341	AMD-P	03-13-116	232- 28-61900M	REP-E	03-07-016
232- 19-180	REP-P	03-06-080	232- 28-351	NEW-P	03-06-113	232- 28-61900M	REP-E	03-11-037
232- 19-180	REP	03-10-038	232- 28-351	NEW	03-13-047	232- 28-61900M	NEW-E	03-13-094
232- 28-02201	REP-P	03-02-103	232- 28-352	NEW-P	03-06-114	232- 28-61900M	REP-E	03-13-094
232- 28-02201	REP	03-06-110	232- 28-352	NEW	03-13-047	232- 28-61900N	NEW-E	03-07-023
232- 28-02202	REP-P	03-02-103	232- 28-426	REP-P	03-13-115	232- 28-61900N	REP-E	03-07-023
232- 28-02202	REP	03-06-110	232- 28-42600C	NEW-E	03-03-102	232- 28-61900N	NEW-E	03-14-028
232- 28-02203	REP-P	03-02-103	232- 28-42600C	REP-E	03-03-102	232- 28-61900N	REP-E	03-14-093
232- 28-02203	REP	03-06-110	232- 28-427	NEW-P	03-13-115	232- 28-61900P	NEW-E	03-07-075
232- 28-02204	REP-P	03-02-103	232- 28-515	AMD-P	03-06-107	232- 28-61900P	REP-E	03-07-075
232- 28-02204	REP	03-06-110	232- 28-515	AMD	03-13-047	232- 28-61900P	REP-E	03-13-069
232- 28-02205	REP-P	03-02-103	232- 28-619	AMD	03-05-057	232- 28-61900P	NEW-E	03-14-073
232- 28-02205	REP	03-06-110	232- 28-619	AMD-X	03-12-094	232- 28-61900Q	REP-E	03-05-003
232- 28-02206	REP-P	03-02-103	232- 28-61900A	NEW-E	03-10-053	232- 28-61900Q	NEW-E	03-07-064
232- 28-02206	REP	03-06-110	232- 28-61900A	REP-E	03-10-053	232- 28-61900Q	REP-E	03-07-064
232- 28-02220	REP-P	03-06-112	232- 28-61900B	REP-E	03-04-047	232- 28-61900Q	NEW-E	03-14-093
232- 28-02220	REP	03-13-047	232- 28-61900B	NEW-E	03-11-001	232- 28-61900R	NEW-E	03-07-068
232- 28-02240	REP-P	03-06-112	232- 28-61900B	REP-E	03-11-001	232- 28-61900R	REP-E	03-07-068
232- 28-02240	REP	03-13-047	232- 28-61900B	REP-E	03-13-001	232- 28-61900S	NEW-E	03-08-054
232- 28-02280	REP-P	03-02-103	232- 28-61900C	NEW-E	03-03-004	232- 28-61900S	REP-E	03-08-054
232- 28-02280	REP	03-06-110	232- 28-61900C	REP-E	03-03-004	232- 28-61900T	NEW-E	03-09-001
232- 28-248	AMD-P	03-06-108	232- 28-61900C	NEW-E	03-11-037	232- 28-61900T	REP-E	03-09-001
232- 28-248	AMD	03-13-047	232- 28-61900C	REP-E	03-11-082	232- 28-61900T	REP-E	03-10-033
232- 28-266	AMD-P	03-06-066	232- 28-61900D	NEW-E	03-03-098	232- 28-61900U	NEW-E	03-09-016
232- 28-266	AMD	03-10-009	232- 28-61900D	REP-E	03-03-098	232- 28-61900U	REP-E	03-09-016
232- 28-271	AMD	03-03-016	232- 28-61900D	NEW-E	03-11-051	232- 28-61900V	NEW-E	03-10-001
232- 28-272	AMD-P	03-06-108	232- 28-61900D	REP-E	03-11-051	232- 28-61900V	REP-E	03-10-001
232- 28-272	AMD	03-13-047	232- 28-61900E	NEW-E	03-04-047	232- 28-61900V	REP-E	03-12-041
232- 28-273	AMD-P	03-06-105	232- 28-61900E	REP-E	03-04-047	232- 28-61900W	NEW-E	03-10-015
232- 28-273	AMD	03-13-047	232- 28-61900E	NEW-E	03-11-082	232- 28-61900W	REP-E	03-11-037
232- 28-276	REP-P	03-06-106	232- 28-61900E	REP-E	03-12-022	232- 28-61900X	NEW-E	03-10-032
232- 28-276	REP	03-13-047	232- 28-61900F	NEW-E	03-05-003	232- 28-61900X	REP-E	03-10-032
232- 28-278	REP-P	03-06-113	232- 28-61900F	REP-E	03-05-003	232- 28-61900X	REP-E	03-11-037
232- 28-278	REP	03-13-047	232- 28-61900F	NEW-E	03-12-022	232- 28-61900Y	NEW-E	03-10-039
232- 28-279	REP-P	03-06-114	232- 28-61900F	REP-E	03-13-068	232- 28-61900Y	REP-E	03-10-039
232- 28-279	REP	03-13-047	232- 28-61900G	NEW-E	03-05-038	232- 28-61900Y	REP-E	03-10-053
232- 28-282	AMD	03-03-016	232- 28-61900G	REP-E	03-05-038	232- 28-61900Z	NEW-E	03-10-033
232- 28-282	AMD-P	03-13-141	232- 28-61900G	NEW-E	03-12-041	232- 28-61900Z	REP-E	03-10-033
232- 28-291	AMD-P	03-06-105	232- 28-61900G	REP-E	03-12-041	232- 28-620	AMD-X	03-12-095
232- 28-291	AMD-P	03-12-077	232- 28-61900H	NEW-E	03-05-037	232- 28-62000K	NEW-E	03-10-039
232- 28-291	AMD	03-13-047	232- 28-61900H	REP-E	03-05-037	232- 28-62000K	REP-E	03-10-039
232- 28-331	NEW-P	03-02-103	232- 28-61900H	REP-E	03-09-001	232- 28-621	AMD	03-05-057
232- 28-331	NEW	03-06-110	232- 28-61900H	NEW-E	03-13-003	232- 28-621	AMD-X	03-12-095
232- 28-331	AMD-P	03-13-117	232- 28-61900H	REP-E	03-13-003	232- 28-62100K	NEW-E	03-10-039
232- 28-332	NEW-P	03-02-103	232- 28-61900I	NEW-E	03-06-009	232- 28-62100K	REP-E	03-10-039

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
236-12-480	NEW-E	03-08-006	246-254-080	AMD	03-14-034	246-290-416	AMD	03-08-037
236-12-480	REP-E	03-09-030	246-254-090	AMD-P	03-08-035	246-290-451	AMD-P	03-03-079
242-02-010	AMD-X	03-10-069	246-254-090	AMD	03-14-034	246-290-451	AMD	03-08-037
242-02-052	AMD-X	03-10-069	246-254-100	AMD-P	03-08-035	246-290-480	AMD-P	03-03-079
242-02-070	AMD-X	03-10-069	246-254-100	AMD	03-14-034	246-290-480	AMD	03-08-037
242-02-072	AMD-X	03-10-069	246-260-9901	AMD-P	03-11-030	246-290-490	AMD-P	03-03-079
242-02-076	NEW-X	03-10-069	246-260-9901	AMD	03-14-146	246-290-490	AMD	03-08-037
242-02-834	AMD-X	03-10-069	246-262-990	AMD-P	03-11-030	246-290-495	REP-P	03-03-079
242-04-050	AMD-X	03-10-069	246-262-990	AMD	03-14-146	246-290-495	REP	03-08-037
246-01-001	AMD-X	03-04-105	246-272	PREP	03-08-028	246-290-601	AMD-P	03-03-079
246-01-001	AMD	03-11-032	246-272B-00101	NEW-P	03-12-089	246-290-601	AMD	03-08-037
246-01-040	REP-X	03-04-105	246-272B-00501	NEW-P	03-12-089	246-290-630	AMD-P	03-03-079
246-01-040	REP	03-11-032	246-272B-01001	NEW-P	03-12-089	246-290-630	AMD	03-08-037
246-01-070	REP-X	03-04-105	246-272B-03001	NEW-P	03-12-089	246-290-634	AMD-P	03-03-079
246-01-070	REP	03-11-032	246-272B-08001	NEW-P	03-12-089	246-290-634	AMD	03-08-037
246-01-080	AMD-X	03-04-105	246-272B-09501	NEW-P	03-12-089	246-290-638	AMD-P	03-03-079
246-01-080	AMD	03-11-032	246-272B-0990	NEW-P	03-12-089	246-290-638	AMD	03-08-037
246-01-090	AMD-X	03-04-105	246-272B-11001	NEW-P	03-12-089	246-290-654	AMD-P	03-03-079
246-01-090	AMD	03-11-032	246-272B-11501	NEW-P	03-12-089	246-290-654	AMD	03-08-037
246-01-100	REP-X	03-04-105	246-272B-12501	NEW-P	03-12-089	246-290-660	AMD-P	03-03-079
246-01-100	REP	03-11-032	246-272B-13501	NEW-P	03-12-089	246-290-660	AMD	03-08-037
246-08-400	AMD-P	03-10-098	246-272B-15501	NEW-P	03-12-089	246-290-662	AMD-P	03-03-079
246-08-400	AMD	03-14-036	246-272B-16501	NEW-P	03-12-089	246-290-662	AMD	03-08-037
246-100	AMD-W	03-06-051	246-272B-17501	NEW-P	03-12-089	246-290-664	AMD-P	03-03-079
246-100-011	AMD	03-06-003	246-272B-18501	NEW-P	03-12-089	246-290-664	AMD	03-08-037
246-100-036	AMD	03-05-048	246-272B-19501	NEW-P	03-12-089	246-290-666	AMD-P	03-03-079
246-100-036	AMD-X	03-09-066	246-272B-20501	NEW-P	03-12-089	246-290-666	AMD	03-08-037
246-100-040	NEW	03-05-048	246-272B-25001	NEW-P	03-12-089	246-290-672	AMD-P	03-03-079
246-100-045	NEW	03-05-048	246-272B-26001	NEW-P	03-12-089	246-290-672	AMD	03-08-037
246-100-050	NEW	03-05-048	246-272B-27001	NEW-P	03-12-089	246-290-674	AMD-P	03-03-079
246-100-055	NEW	03-05-048	246-272B-28001	NEW-P	03-12-089	246-290-674	AMD	03-08-037
246-100-060	NEW	03-05-048	246-282-990	AMD-P	03-10-043	246-290-676	AMD-P	03-03-079
246-100-065	NEW	03-05-048	246-282-990	AMD	03-14-037	246-290-676	AMD	03-08-037
246-100-070	NEW	03-05-048	246-282-990	AMD-P	03-14-145	246-290-690	AMD-P	03-03-079
246-100-166	PREP	03-09-126	246-290	PREP	03-04-044	246-290-690	AMD	03-08-037
246-101-505	AMD	03-06-003	246-290	PREP-W	03-07-101	246-290-691	AMD-P	03-03-079
246-205-990	AMD-P	03-08-033	246-290	PREP-W	03-07-102	246-290-691	AMD	03-08-037
246-205-990	AMD	03-13-123	246-290	PREP	03-07-103	246-290-692	AMD-P	03-03-079
246-243-150	AMD-P	03-07-094	246-290-002	AMD-P	03-03-079	246-290-692	AMD	03-08-037
246-243-150	AMD	03-12-062	246-290-002	AMD	03-08-037	246-290-694	AMD-P	03-03-079
246-244-020	AMD-P	03-07-094	246-290-010	AMD-P	03-03-079	246-290-694	AMD	03-08-037
246-244-020	AMD	03-12-062	246-290-010	AMD	03-08-037	246-290-696	AMD-P	03-03-079
246-244-030	AMD-P	03-07-094	246-290-025	AMD-P	03-03-079	246-290-696	AMD	03-08-037
246-244-030	AMD	03-12-062	246-290-025	AMD	03-08-037	246-290-71001	NEW-P	03-03-079
246-244-080	AMD-P	03-07-094	246-290-060	AMD-P	03-03-078	246-290-71001	NEW	03-08-037
246-244-080	AMD	03-12-062	246-290-060	AMD-P	03-03-079	246-290-71002	NEW-P	03-03-079
246-244-110	AMD-P	03-07-094	246-290-060	AMD	03-08-037	246-290-71002	NEW	03-08-037
246-244-110	AMD	03-12-062	246-290-100	AMD-P	03-03-079	246-290-71003	NEW-P	03-03-079
246-244-115	NEW-P	03-07-094	246-290-100	AMD	03-08-037	246-290-71003	NEW	03-08-037
246-244-115	NEW	03-12-062	246-290-105	AMD-P	03-03-079	246-290-71004	NEW-P	03-03-079
246-244-160	AMD-P	03-07-094	246-290-105	AMD	03-08-037	246-290-71004	NEW	03-08-037
246-244-160	AMD	03-12-062	246-290-125	AMD-P	03-03-079	246-290-71005	NEW-P	03-03-079
246-244-240	AMD-P	03-07-094	246-290-125	AMD	03-08-037	246-290-71005	NEW	03-08-037
246-244-240	AMD	03-12-062	246-290-220	AMD-P	03-03-079	246-290-71006	NEW-P	03-03-079
246-247-110	PREP	03-10-016	246-290-220	AMD	03-08-037	246-290-71006	NEW	03-08-037
246-247-120	PREP	03-10-016	246-290-300	AMD-P	03-03-079	246-290-71007	NEW-P	03-03-079
246-247-130	PREP	03-10-016	246-290-300	AMD	03-08-037	246-290-71007	NEW	03-08-037
246-254-053	AMD-P	03-08-034	246-290-310	AMD-P	03-03-079	246-290-72001	AMD-P	03-03-079
246-254-053	AMD	03-13-122	246-290-310	AMD	03-08-037	246-290-72001	AMD	03-08-037
246-254-070	AMD-P	03-08-035	246-290-320	AMD-P	03-03-079	246-290-72005	AMD-P	03-03-079
246-254-070	AMD	03-14-034	246-290-320	AMD	03-08-037	246-290-72005	AMD	03-08-037
246-254-080	AMD-P	03-08-035	246-290-416	AMD-P	03-03-079	246-290-72007	AMD-P	03-03-079

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-290-72007	AMD	03-08-037	246-828-020	AMD-P	03-14-033	246-926-100	AMD	03-10-100
246-290-72010	AMD-P	03-03-079	246-830-005	AMD	03-11-033	246-926-100	PREP	03-14-144
246-290-72010	AMD	03-08-037	246-830-435	NEW	03-11-033	246-926-110	PREP	03-14-144
246-290-72012	AMD-P	03-03-079	246-830-990	AMD-P	03-03-077	246-926-120	PREP	03-14-144
246-290-72012	AMD	03-08-037	246-830-990	AMD	03-07-095	246-926-130	PREP	03-14-144
246-290-990	AMD-P	03-08-036	246-834-990	PREP	03-13-126	246-926-140	PREP	03-14-032
246-290-990	AMD	03-13-028	246-836-990	AMD-P	03-03-077	246-926-180	PREP	03-14-032
246-292	PREP	03-04-044	246-836-990	AMD	03-07-095	246-926-190	PREP	03-14-032
246-292-160	AMD-P	03-08-036	246-840-010	PREP	03-12-087	246-926-990	PREP	03-14-032
246-292-160	AMD	03-13-028	246-840-010	AMD-E	03-13-143	246-927-990	NEW-P	03-05-022
246-294	PREP	03-04-044	246-840-840	PREP	03-12-087	246-927-990	NEW	03-09-065
246-310-132	REP-W	03-14-137	246-840-840	AMD-E	03-13-143	246-933-320	AMD-P	03-06-100
246-310-261	AMD-W	03-14-137	246-840-850	PREP	03-12-087	246-933-320	AMD	03-14-035
246-310-262	AMD-W	03-14-137	246-840-850	AMD-E	03-13-143	246-933-501	NEW-P	03-06-100
246-310-263	NEW-W	03-14-137	246-840-860	PREP	03-12-087	246-933-501	NEW	03-14-035
246-310-290	NEW-P	03-03-097	246-840-860	AMD-E	03-13-143	246-933-510	NEW-P	03-06-100
246-310-290	NEW	03-07-096	246-840-870	PREP	03-12-087	246-933-510	NEW	03-14-035
246-310-295	NEW-P	03-03-097	246-840-870	AMD-E	03-13-143	246-933-520	NEW-P	03-06-100
246-310-295	NEW	03-07-096	246-840-880	PREP	03-12-087	246-933-520	NEW	03-14-035
246-310-990	AMD-P	03-03-097	246-840-880	AMD-E	03-13-143	246-933-530	NEW-P	03-06-100
246-310-990	AMD	03-07-096	246-840-890	PREP	03-12-087	246-933-530	NEW	03-14-035
246-320-010	AMD-P	03-12-090	246-840-890	AMD-E	03-13-143	246-933-550	NEW-P	03-06-100
246-320-010	AMD-W	03-14-016	246-840-900	PREP	03-12-087	246-933-550	NEW	03-14-035
246-320-370	NEW-P	03-12-090	246-840-900	REP-E	03-13-143	246-933-590	NEW-P	03-05-023
246-320-370	NEW-W	03-14-016	246-840-990	AMD-E	03-12-063	246-933-590	NEW	03-10-044
246-323-990	AMD-P	03-10-099	246-847-010	PREP	03-08-031	246-935-070	AMD-P	03-04-104
246-323-990	AMD	03-14-147	246-847-065	PREP	03-08-029	246-935-070	AMD	03-11-034
246-455-001	AMD-P	03-05-024	246-847-120	PREP	03-08-092	246-976-021	PREP	03-09-125
246-455-001	AMD-S	03-09-127	246-847-170	PREP	03-08-030	250- 18-015	AMD-P	03-09-145
246-455-001	AMD	03-13-029	246-850-130	NEW-P	03-12-088	250- 18-015	AMD	03-13-056
246-455-010	AMD-P	03-05-024	246-850-140	NEW-P	03-12-088	250- 18-020	AMD-P	03-09-145
246-455-010	AMD-S	03-09-127	246-850-150	NEW-P	03-12-088	250- 18-020	AMD	03-13-056
246-455-010	AMD	03-13-029	246-850-160	NEW-P	03-12-088	250- 18-025	AMD-P	03-09-145
246-455-020	AMD-P	03-05-024	246-851-160	PREP	03-04-043	250- 18-025	AMD	03-13-056
246-455-020	AMD-S	03-09-127	246-851-170	PREP	03-04-043	250- 18-030	AMD-P	03-09-145
246-455-020	AMD	03-13-029	246-851-390	REP	03-05-021	250- 18-030	AMD	03-13-056
246-455-030	AMD-P	03-05-024	246-869-260	PREP-W	03-04-042	250- 18-035	AMD-P	03-09-145
246-455-030	AMD-S	03-09-127	246-870-010	NEW-P	03-11-092	250- 18-035	AMD	03-13-056
246-455-030	AMD	03-13-029	246-870-020	NEW-P	03-11-092	250- 18-040	REP-P	03-09-145
246-455-040	AMD-P	03-05-024	246-870-030	NEW-P	03-11-092	250- 18-040	REP	03-13-056
246-455-040	AMD-S	03-09-127	246-870-040	NEW-P	03-11-092	250- 18-070	NEW-P	03-09-145
246-455-040	AMD	03-13-029	246-870-050	NEW-P	03-11-092	250- 61	PREP	03-04-079
246-455-070	AMD-P	03-05-024	246-870-060	NEW-P	03-11-092	250- 69	AMD	03-04-101
246-455-080	AMD-P	03-05-024	246-870-070	NEW-P	03-11-092	250- 69-010	AMD	03-04-101
246-455-080	AMD-S	03-09-127	246-870-080	NEW-P	03-11-092	250- 69-020	AMD	03-04-101
246-455-080	AMD	03-13-029	246-870-090	NEW-P	03-11-092	250- 69-030	AMD	03-04-101
246-455-090	AMD-P	03-05-024	246-887	PREP	03-09-124	250- 69-040	AMD	03-04-101
246-455-100	AMD-P	03-05-024	246-887-045	NEW	03-04-045	250- 69-050	AMD	03-04-101
246-455-100	AMD-S	03-09-127	246-887-165	NEW-X	03-03-096	250- 69-060	AMD	03-04-101
246-455-100	AMD	03-13-029	246-887-165	NEW	03-09-064	250- 69-070	AMD	03-04-101
246-562	PREP	03-09-017	246-889-050	NEW-P	03-06-002	250- 69-090	AMD	03-04-101
246-562-020	AMD-E	03-06-050	246-889-050	NEW	03-13-027	250- 69-110	REP	03-04-101
246-680-001	AMD	03-11-031	246-919	PREP	03-08-032	251- 04-035	NEW-E	03-03-042
246-680-010	AMD	03-11-031	246-919-100	REP-X	03-12-091	251- 04-035	NEW-P	03-07-059
246-680-020	AMD	03-11-031	246-919-120	REP-X	03-12-091	251- 04-035	NEW-P	03-10-101
246-802-990	AMD-P	03-03-077	246-919-130	REP-X	03-12-091	251- 04-035	NEW-E	03-11-004
246-802-990	AMD	03-07-095	246-919-140	REP-X	03-12-091	251- 04-035	NEW-W	03-11-005
246-812-010	AMD	03-12-061	246-919-150	REP-X	03-12-091	251- 04-035	NEW	03-13-051
246-812-130	REP	03-12-061	246-919-350	REP-X	03-12-091	260	PREP	03-09-131
246-812-160	AMD	03-12-061	246-919-720	REP-X	03-12-091	260- 08-595	NEW	03-03-041
246-815-990	AMD-P	03-03-077	246-924-354	PREP	03-05-020	260- 13-420	PREP	03-03-067
246-815-990	AMD	03-07-095	246-926-020	PREP	03-14-032	260- 13-420	AMD-P	03-07-054

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
260-13-420	AMD	03-11-015	284-30-3906	NEW-P	03-03-132	296-13-052	REP	03-09-111
260-20-035	PREP	03-03-025	284-30-3906	NEW-S	03-09-143	296-13-053	REP-P	03-05-074
260-20-035	REP-P	03-07-051	284-30-3906	NEW	03-14-092	296-13-053	REP	03-09-111
260-20-035	REP	03-11-016	284-30-3907	NEW-P	03-03-132	296-13-055	REP-P	03-05-074
260-24	PREP	03-05-067	284-30-3907	NEW-S	03-09-143	296-13-055	REP	03-09-111
260-24-510	AMD-P	03-09-132	284-30-3907	NEW	03-14-092	296-13-057	REP-P	03-05-074
260-24-510	AMD	03-13-074	284-30-3908	NEW-P	03-03-132	296-13-057	REP	03-09-111
260-28-030	AMD-P	03-03-040	284-30-3908	NEW-S	03-09-143	296-13-060	REP-P	03-05-074
260-28-030	AMD	03-07-056	284-30-3908	NEW	03-14-092	296-13-060	REP	03-09-111
260-32-005	NEW-P	03-07-074	284-30-3909	NEW-P	03-03-132	296-13-080	REP-P	03-05-074
260-32-005	NEW-W	03-11-014	284-30-3909	NEW-S	03-09-143	296-13-080	REP	03-09-111
260-34-090	AMD	03-05-071	284-30-3909	NEW	03-14-092	296-13-090	REP-P	03-05-074
260-48	PREP	03-05-068	284-30-3910	NEW-P	03-03-132	296-13-090	REP	03-09-111
260-48-630	AMD-P	03-04-089	284-30-3910	NEW-S	03-09-143	296-13-100	REP-P	03-05-074
260-48-630	AMD	03-07-057	284-30-3910	NEW	03-14-092	296-13-100	REP	03-09-111
260-48-890	AMD-P	03-09-133	284-30-3911	NEW-P	03-03-132	296-13-110	REP-P	03-05-074
260-48-890	AMD-W	03-13-072	284-30-3911	NEW-S	03-09-143	296-13-110	REP	03-09-111
260-48-900	AMD-P	03-09-133	284-30-3911	NEW	03-14-092	296-13-130	REP-P	03-05-074
260-48-900	AMD-W	03-13-072	284-30-3912	NEW-P	03-03-132	296-13-130	REP	03-09-111
260-48-910	AMD-P	03-09-133	284-30-3912	NEW-S	03-09-143	296-13-140	REP-P	03-05-074
260-48-910	AMD-W	03-13-072	284-30-3912	NEW	03-14-092	296-13-140	REP	03-09-111
260-48-940	NEW-P	03-07-053	284-30-3913	NEW-P	03-03-132	296-13-150	REP-P	03-05-074
260-48-940	NEW	03-11-017	284-30-3913	NEW-S	03-09-143	296-13-150	REP	03-09-111
260-70-610	AMD-P	03-07-052	284-30-3913	NEW	03-14-092	296-13-160	REP-P	03-05-074
260-70-610	AMD	03-11-018	284-30-3914	NEW-P	03-03-132	296-13-160	REP	03-09-111
260-70-630	AMD-P	03-07-055	284-30-3914	NEW-S	03-09-143	296-13-170	REP-P	03-05-074
260-70-630	AMD-E	03-09-057	284-30-3914	NEW	03-14-092	296-13-170	REP	03-09-111
260-70-630	AMD	03-11-019	284-30-3915	NEW-P	03-03-132	296-13-180	REP-P	03-05-074
260-70-630	PREP	03-13-071	284-30-3915	NEW-S	03-09-143	296-13-180	REP	03-09-111
260-70-650	AMD	03-06-004	284-30-3915	NEW	03-14-092	296-13-190	REP-P	03-05-074
260-70-660	AMD	03-06-004	284-30-3916	NEW-S	03-09-143	296-13-190	REP	03-09-111
260-70-700	AMD	03-06-004	284-30-3916	NEW	03-14-092	296-13-200	REP-P	03-05-074
260-72-010	AMD-W	03-05-069	284-30-505	NEW-W	03-08-071	296-13-200	REP	03-09-111
260-72-010	REP-P	03-05-070	284-30-510	NEW-W	03-10-096	296-13-210	REP-P	03-05-074
260-72-010	REP-P	03-09-134	284-43-220	AMD-X	03-03-134	296-13-210	REP	03-09-111
260-72-010	REP	03-13-073	284-43-220	AMD	03-09-142	296-13-220	REP-P	03-05-074
260-72-040	NEW-P	03-04-090	284-43-323	NEW	03-07-006	296-13-220	REP	03-09-111
260-72-040	NEW	03-07-058	284-91	AMD	03-07-007	296-13-230	REP-P	03-05-074
284-07-010	AMD	03-03-133	284-91-001	NEW	03-07-007	296-13-230	REP	03-09-111
284-22-020	AMD	03-03-052	284-91-010	REP	03-07-007	296-13-240	REP-P	03-05-074
284-22-050	AMD	03-03-052	284-91-020	REP	03-07-007	296-13-240	REP	03-09-111
284-22-060	AMD	03-03-052	284-91-025	REP	03-07-007	296-13-250	REP-P	03-05-074
284-22-080	AMD	03-03-052	284-91-027	REP	03-07-007	296-13-250	REP	03-09-111
284-24A-070	NEW-W	03-03-063	284-91-030	REP	03-07-007	296-13-260	REP-P	03-05-074
284-30-390	AMD-P	03-03-132	284-91-040	REP	03-07-007	296-13-260	REP	03-09-111
284-30-390	AMD-S	03-09-143	284-91-050	REP	03-07-007	296-13-270	REP-P	03-05-074
284-30-390	AMD	03-14-092	284-91-060	REP	03-07-007	296-13-270	REP	03-09-111
284-30-3901	NEW-P	03-03-132	296-13-001	REP-P	03-05-074	296-13-280	REP-P	03-05-074
284-30-3901	NEW-S	03-09-143	296-13-001	REP	03-09-111	296-13-280	REP	03-09-111
284-30-3901	NEW	03-14-092	296-13-010	REP-P	03-05-074	296-13-290	REP-P	03-05-074
284-30-3902	NEW-P	03-03-132	296-13-010	REP	03-09-111	296-13-290	REP	03-09-111
284-30-3902	NEW-S	03-09-143	296-13-020	REP-P	03-05-074	296-13-300	REP-P	03-05-074
284-30-3902	NEW	03-14-092	296-13-020	REP	03-09-111	296-13-300	REP	03-09-111
284-30-3903	NEW-P	03-03-132	296-13-030	REP-P	03-05-074	296-13-310	REP-P	03-05-074
284-30-3903	NEW-S	03-09-143	296-13-030	REP	03-09-111	296-13-310	REP	03-09-111
284-30-3903	NEW	03-14-092	296-13-035	REP-P	03-05-074	296-13-320	REP-P	03-05-074
284-30-3904	NEW-P	03-03-132	296-13-035	REP	03-09-111	296-13-320	REP	03-09-111
284-30-3904	NEW-S	03-09-143	296-13-040	REP-P	03-05-074	296-13-330	REP-P	03-05-074
284-30-3904	NEW	03-14-092	296-13-040	REP	03-09-111	296-13-330	REP	03-09-111
284-30-3905	NEW-P	03-03-132	296-13-050	REP-P	03-05-074	296-13-340	REP-P	03-05-074
284-30-3905	NEW-S	03-09-143	296-13-050	REP	03-09-111	296-13-340	REP	03-09-111
284-30-3905	NEW	03-14-092	296-13-052	REP-P	03-05-074	296-13-350	REP-P	03-05-074

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-13-350	REP	03-09-111	296-17-76203	PREP	03-03-026	296-20-170	AMD-X	03-14-127
296-13-360	REP-P	03-05-074	296-17-76203	AMD-P	03-14-126	296-20-303	DECOD-X	03-14-127
296-13-360	REP	03-09-111	296-17-76204	PREP	03-03-026	296-23-220	AMD-P	03-09-107
296-13-370	REP-P	03-05-074	296-17-76204	AMD-P	03-14-126	296-23-220	AMD	03-14-043
296-13-370	REP	03-09-111	296-17-76205	PREP	03-03-026	296-23-230	AMD-P	03-09-107
296-13-380	REP-P	03-05-074	296-17-76205	AMD-P	03-14-126	296-23-230	AMD	03-14-043
296-13-380	REP	03-09-111	296-17-76206	PREP	03-03-026	296-23-240	AMD-X	03-14-127
296-13-390	REP-P	03-05-074	296-17-76206	AMD-P	03-14-126	296-23-246	RECOD-X	03-14-127
296-13-390	REP	03-09-111	296-17-76207	PREP	03-03-026	296-23A-0710	AMD-X	03-14-127
296-13-400	REP-P	03-05-074	296-17-76207	AMD-P	03-14-126	296-24	PREP	03-03-110
296-13-400	REP	03-09-111	296-17-76208	PREP	03-03-026	296-24	PREP	03-10-064
296-13-410	REP-P	03-05-074	296-17-76208	AMD-P	03-14-126	296-24	PREP	03-10-066
296-13-410	REP	03-09-111	296-17-76209	PREP	03-03-026	296-24-120	AMD-X	03-12-072
296-13-420	REP-P	03-05-074	296-17-76209	AMD-P	03-14-126	296-24-12001	REP-X	03-12-072
296-13-420	REP	03-09-111	296-17-76210	PREP	03-03-026	296-24-12002	REP-X	03-12-072
296-13-430	REP-P	03-05-074	296-17-76210	AMD-P	03-14-126	296-24-12010	REP-X	03-12-072
296-13-430	REP	03-09-111	296-17-76211	PREP	03-03-026	296-24-12011	REP-X	03-12-072
296-13-440	REP-P	03-05-074	296-17-76211	AMD-P	03-14-126	296-24-12017	REP-X	03-12-072
296-13-440	REP	03-09-111	296-17-76212	PREP	03-03-026	296-24-235	REP-P	03-14-075
296-14-310	NEW-P	03-06-074	296-17-76212	AMD-P	03-14-126	296-24-23501	REP-P	03-14-075
296-14-310	NEW	03-12-046	296-17-76213	NEW-P	03-14-126	296-24-23503	REP-P	03-14-075
296-14-315	NEW-P	03-06-074	296-19A-010	AMD	03-11-009	296-24-23505	REP-P	03-14-075
296-14-315	NEW	03-12-046	296-19A-020	AMD	03-11-009	296-24-23507	REP-P	03-14-075
296-14-320	NEW-P	03-06-074	296-19A-025	NEW	03-11-009	296-24-23509	REP-P	03-14-075
296-14-320	NEW	03-12-046	296-19A-030	AMD	03-11-009	296-24-23511	REP-P	03-14-075
296-14-325	NEW-P	03-06-074	296-19A-040	AMD	03-11-009	296-24-23513	REP-P	03-14-075
296-14-325	NEW	03-12-046	296-19A-060	AMD	03-11-009	296-24-23515	REP-P	03-14-075
296-14-330	NEW-P	03-06-074	296-19A-065	NEW	03-11-009	296-24-23517	REP-P	03-14-075
296-14-330	NEW	03-12-046	296-19A-070	AMD	03-11-009	296-24-23519	REP-P	03-14-075
296-14-520	NEW	03-11-035	296-19A-090	AMD	03-11-009	296-24-23521	REP-P	03-14-075
296-14-522	NEW	03-11-035	296-19A-100	AMD	03-11-009	296-24-23523	REP-P	03-14-075
296-14-524	NEW	03-11-035	296-19A-110	AMD	03-11-009	296-24-23525	REP-P	03-14-075
296-14-526	NEW	03-11-035	296-19A-125	NEW	03-11-009	296-24-23527	REP-P	03-14-075
296-14-528	NEW	03-11-035	296-19A-130	AMD	03-11-009	296-24-23529	REP-P	03-14-075
296-14-530	NEW	03-11-035	296-19A-135	NEW	03-11-009	296-24-23531	REP-P	03-14-075
296-150C	PREP	03-04-098	296-19A-137	NEW	03-11-009	296-24-240	REP-P	03-14-075
296-150F	PREP	03-04-098	296-19A-140	AMD	03-11-009	296-24-24001	REP-P	03-14-075
296-150M	PREP	03-04-098	296-19A-170	AMD	03-11-009	296-24-24003	REP-P	03-14-075
296-150P	PREP	03-04-098	296-19A-180	AMD	03-11-009	296-24-24005	REP-P	03-14-075
296-150R	PREP	03-04-098	296-19A-190	AMD	03-11-009	296-24-24007	REP-P	03-14-075
296-150T	PREP	03-04-098	296-19A-191	NEW	03-11-009	296-24-24009	REP-P	03-14-075
296-150V	PREP	03-04-098	296-19A-192	NEW	03-11-009	296-24-24011	REP-P	03-14-075
296-17	PREP	03-05-072	296-19A-193	NEW	03-11-009	296-24-24013	REP-P	03-14-075
296-17	PREP-W	03-09-106	296-19A-200	AMD	03-11-009	296-24-24015	REP-P	03-14-075
296-17	PREP	03-13-099	296-19A-210	AMD	03-11-009	296-24-24017	REP-P	03-14-075
296-17-31027	AMD-P	03-14-126	296-19A-240	AMD	03-11-009	296-24-24019	REP-P	03-14-075
296-17-757	PREP	03-03-026	296-19A-245	NEW	03-11-009	296-24-245	REP-P	03-14-075
296-17-757	AMD-P	03-14-126	296-19A-260	AMD	03-11-009	296-24-24501	REP-P	03-14-075
296-17-758	PREP	03-03-026	296-19A-270	AMD	03-11-009	296-24-24503	REP-P	03-14-075
296-17-758	AMD-P	03-14-126	296-19A-300	AMD	03-11-009	296-24-24505	REP-P	03-14-075
296-17-759	PREP	03-03-026	296-19A-350	AMD	03-11-009	296-24-24507	REP-P	03-14-075
296-17-759	AMD-P	03-14-126	296-19A-400	AMD	03-11-009	296-24-24509	REP-P	03-14-075
296-17-760	PREP	03-03-026	296-19A-440	AMD	03-11-009	296-24-24511	REP-P	03-14-075
296-17-760	AMD-P	03-14-126	296-19A-480	AMD	03-11-009	296-24-24513	REP-P	03-14-075
296-17-761	PREP	03-03-026	296-20-010	AMD-X	03-14-127	296-24-24515	REP-P	03-14-075
296-17-761	AMD-P	03-14-126	296-20-01002	AMD-X	03-14-127	296-24-24517	REP-P	03-14-075
296-17-762	PREP	03-03-026	296-20-01501	AMD-X	03-14-127	296-24-24519	REP-P	03-14-075
296-17-762	AMD-P	03-14-126	296-20-02010	AMD-X	03-14-127	296-24-650	REP	03-09-009
296-17-76201	PREP	03-03-026	296-200A	PREP	03-04-098	296-24-65003	REP	03-09-009
296-17-76201	AMD-P	03-14-126	296-20-12501	AMD-X	03-14-127	296-24-65005	REP	03-09-009
296-17-76202	PREP	03-03-026	296-20-135	AMD-P	03-09-107	296-24-65007	REP	03-09-009
296-17-76202	AMD-P	03-14-126	296-20-135	AMD	03-14-043	296-24-655	REP	03-09-009

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296- 24-65501	REP	03-09-009	296- 46A-130	REP	03-09-111	296- 46A-900	REP	03-09-111
296- 24-657	REP	03-09-009	296- 46A-140	REP-P	03-05-074	296- 46A-910	REP-P	03-05-074
296- 24-65701	REP	03-09-009	296- 46A-140	REP	03-09-111	296- 46A-910	REP	03-09-111
296- 24-65703	REP	03-09-009	296- 46A-155	REP-P	03-05-074	296- 46A-915	REP-P	03-05-074
296- 24-660	REP	03-09-009	296- 46A-155	REP	03-09-111	296- 46A-915	REP	03-09-111
296- 24-66001	REP	03-09-009	296- 46A-21052	REP-P	03-05-074	296- 46A-920	REP-P	03-05-074
296- 24-66003	REP	03-09-009	296- 46A-21052	REP	03-09-111	296- 46A-920	REP	03-09-111
296- 24-66005	REP	03-09-009	296- 46A-215	REP-P	03-05-074	296- 46A-930	REP-P	03-05-074
296- 24-66007	REP	03-09-009	296- 46A-215	REP	03-09-111	296- 46A-930	REP	03-09-111
296- 24-66009	REP	03-09-009	296- 46A-220	REP-P	03-05-074	296- 46A-931	REP-P	03-05-074
296- 24-66011	REP	03-09-009	296- 46A-220	REP	03-09-111	296- 46A-931	REP	03-09-111
296- 24-663	REP	03-09-009	296- 46A-22530	REP-P	03-05-074	296- 46A-932	REP-P	03-05-074
296- 24-66301	REP	03-09-009	296- 46A-22530	REP	03-09-111	296- 46A-932	REP	03-09-111
296- 24-66303	REP	03-09-009	296- 46A-23001	REP-P	03-05-074	296- 46A-933	REP-P	03-05-074
296- 24-66305	REP	03-09-009	296- 46A-23001	REP	03-09-111	296- 46A-933	REP	03-09-111
296- 24-66307	REP	03-09-009	296- 46A-23028	REP-P	03-05-074	296- 46A-934	REP-P	03-05-074
296- 24-66309	REP	03-09-009	296- 46A-23028	REP	03-09-111	296- 46A-934	REP	03-09-111
296- 24-66311	REP	03-09-009	296- 46A-23040	REP-P	03-05-074	296- 46A-935	REP-P	03-05-074
296- 24-66313	REP	03-09-009	296- 46A-23040	REP	03-09-111	296- 46A-935	REP	03-09-111
296- 24-66315	REP	03-09-009	296- 46A-23062	REP-P	03-05-074	296- 46A-940	REP-P	03-05-074
296- 24-66317	REP	03-09-009	296- 46A-23062	REP	03-09-111	296- 46A-940	REP	03-09-111
296- 24-66319	REP	03-09-009	296- 46A-250	REP-P	03-05-074	296- 46A-950	REP-P	03-05-074
296- 24-66321	REP	03-09-009	296- 46A-250	REP	03-09-111	296- 46A-950	REP	03-09-111
296- 24-665	REP	03-09-009	296- 46A-300	REP-P	03-05-074	296- 46A-960	REP-P	03-05-074
296- 24-66501	REP	03-09-009	296- 46A-300	REP	03-09-111	296- 46A-960	REP	03-09-111
296- 24-66503	REP	03-09-009	296- 46A-30011	REP-P	03-05-074	296- 46B	PREP	03-10-065
296- 24-66505	REP	03-09-009	296- 46A-30011	REP	03-09-111	296- 46B-005	NEW-P	03-05-074
296- 24-66507	REP	03-09-009	296- 46A-324	REP-P	03-05-074	296- 46B-005	NEW	03-09-111
296- 24-66509	REP	03-09-009	296- 46A-324	REP	03-09-111	296- 46B-010	NEW-P	03-05-074
296- 24-670	REP	03-09-009	296- 46A-348	REP-P	03-05-074	296- 46B-010	NEW	03-09-111
296- 24-67001	REP	03-09-009	296- 46A-348	REP	03-09-111	296- 46B-020	NEW-P	03-05-074
296- 24-67003	REP	03-09-009	296- 46A-365	REP-P	03-05-074	296- 46B-020	NEW	03-09-111
296- 24-67005	REP	03-09-009	296- 46A-365	REP	03-09-111	296- 46B-030	NEW-P	03-05-074
296- 27-01109	AMD	03-09-110	296- 46A-370	REP-P	03-05-074	296- 46B-030	NEW	03-09-111
296- 30-190	PREP	03-11-057	296- 46A-370	REP	03-09-111	296- 46B-040	NEW-P	03-05-074
296- 30-200	PREP	03-11-058	296- 46A-41004	REP-P	03-05-074	296- 46B-040	NEW	03-09-111
296- 37	PREP	03-04-097	296- 46A-41004	REP	03-09-111	296- 46B-110	NEW-P	03-05-074
296- 400A	PREP	03-04-098	296- 46A-41030	REP-P	03-05-074	296- 46B-110	NEW	03-09-111
296- 401B	PREP	03-04-098	296- 46A-41030	REP	03-09-111	296- 46B-210	NEW-P	03-05-074
296- 402A	PREP	03-04-098	296- 46A-422	REP-P	03-05-074	296- 46B-210	NEW	03-09-111
296- 45	PREP	03-07-072	296- 46A-422	REP	03-09-111	296- 46B-215	NEW-P	03-05-074
296- 45	PREP	03-10-064	296- 46A-450	REP-P	03-05-074	296- 46B-215	NEW	03-09-111
296- 45-045	AMD-P	03-10-067	296- 46A-450	REP	03-09-111	296- 46B-220	NEW-P	03-05-074
296- 45-255	AMD-P	03-10-067	296- 46A-500	REP-P	03-05-074	296- 46B-220	NEW	03-09-111
296- 45-325	AMD-P	03-10-067	296- 46A-500	REP	03-09-111	296- 46B-225	NEW-P	03-05-074
296- 45-48535	AMD-X	03-12-072	296- 46A-514	REP-P	03-05-074	296- 46B-225	NEW	03-09-111
296- 46A	PREP	03-04-098	296- 46A-514	REP	03-09-111	296- 46B-230	NEW-P	03-05-074
296- 46A-090	REP-P	03-05-074	296- 46A-517	REP-P	03-05-074	296- 46B-230	NEW	03-09-111
296- 46A-090	REP	03-09-111	296- 46A-517	REP	03-09-111	296- 46B-250	NEW-P	03-05-074
296- 46A-092	REP-P	03-05-074	296- 46A-550	REP-P	03-05-074	296- 46B-250	NEW	03-09-111
296- 46A-092	REP	03-09-111	296- 46A-550	REP	03-09-111	296- 46B-300	NEW-P	03-05-074
296- 46A-095	REP-P	03-05-074	296- 46A-553	REP-P	03-05-074	296- 46B-300	NEW	03-09-111
296- 46A-095	REP	03-09-111	296- 46A-553	REP	03-09-111	296- 46B-314	NEW-P	03-05-074
296- 46A-100	REP-P	03-05-074	296- 46A-600	REP-P	03-05-074	296- 46B-314	NEW	03-09-111
296- 46A-100	REP	03-09-111	296- 46A-600	REP	03-09-111	296- 46B-334	NEW-P	03-05-074
296- 46A-102	REP-P	03-05-074	296- 46A-680	REP-P	03-05-074	296- 46B-334	NEW	03-09-111
296- 46A-102	REP	03-09-111	296- 46A-680	REP	03-09-111	296- 46B-358	NEW-P	03-05-074
296- 46A-104	REP-P	03-05-074	296- 46A-700	REP-P	03-05-074	296- 46B-358	NEW	03-09-111
296- 46A-104	REP	03-09-111	296- 46A-700	REP	03-09-111	296- 46B-394	NEW-P	03-05-074
296- 46A-110	REP-P	03-05-074	296- 46A-702	REP-P	03-05-074	296- 46B-394	NEW	03-09-111
296- 46A-110	REP	03-09-111	296- 46A-702	REP	03-09-111	296- 46B-410	NEW-P	03-05-074
296- 46A-130	REP-P	03-05-074	296- 46A-900	REP-P	03-05-074	296- 46B-410	NEW	03-09-111

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-46B-422	NEW-P	03-05-074	296-46B-960	NEW	03-09-111	296-62-05404	REP	03-10-068
296-46B-422	NEW	03-09-111	296-46B-965	NEW-P	03-05-074	296-62-05406	REP-X	03-04-100
296-46B-430	NEW-P	03-05-074	296-46B-965	NEW	03-09-111	296-62-05406	REP	03-10-068
296-46B-430	NEW	03-09-111	296-46B-970	NEW-P	03-05-074	296-62-05408	REP-X	03-04-100
296-46B-450	NEW-P	03-05-074	296-46B-970	NEW	03-09-111	296-62-05408	REP	03-10-068
296-46B-450	NEW	03-09-111	296-46B-971	NEW-P	03-05-074	296-62-05410	REP-X	03-04-100
296-46B-501	NEW-P	03-05-074	296-46B-971	NEW	03-09-111	296-62-05410	REP	03-10-068
296-46B-501	NEW	03-09-111	296-46B-975	NEW-P	03-05-074	296-62-05412	REP-X	03-04-100
296-46B-514	NEW-P	03-05-074	296-46B-975	NEW	03-09-111	296-62-05412	REP	03-10-068
296-46B-514	NEW	03-09-111	296-46B-980	NEW-P	03-05-074	296-62-070	REP-X	03-04-100
296-46B-517	NEW-P	03-05-074	296-46B-980	NEW	03-09-111	296-62-070	REP	03-10-068
296-46B-517	NEW	03-09-111	296-46B-985	NEW-P	03-05-074	296-62-07001	REP-X	03-04-100
296-46B-520	NEW-P	03-05-074	296-46B-985	NEW	03-09-111	296-62-07001	REP	03-10-068
296-46B-520	NEW	03-09-111	296-46B-990	NEW-P	03-05-074	296-62-07003	REP-X	03-04-100
296-46B-527	NEW-P	03-05-074	296-46B-990	NEW	03-09-111	296-62-07003	REP	03-10-068
296-46B-527	NEW	03-09-111	296-46B-995	NEW-P	03-05-074	296-62-07005	REP-X	03-04-100
296-46B-550	NEW-P	03-05-074	296-46B-995	NEW	03-09-111	296-62-07005	REP	03-10-068
296-46B-550	NEW	03-09-111	296-46B-998	NEW-P	03-05-074	296-62-071	AMD-P	03-08-044
296-46B-553	NEW-P	03-05-074	296-46B-998	NEW	03-09-111	296-62-07308	AMD-X	03-12-072
296-46B-553	NEW	03-09-111	296-46B-999	NEW-P	03-05-074	296-62-07336	AMD-X	03-12-072
296-46B-555	NEW-P	03-05-074	296-46B-999	NEW	03-09-111	296-62-07342	AMD-X	03-12-072
296-46B-555	NEW	03-09-111	296-52-60020	AMD	03-06-073	296-62-07347	AMD-X	03-12-072
296-46B-600	NEW-P	03-05-074	296-52-60130	AMD	03-06-073	296-62-07419	AMD-X	03-12-072
296-46B-600	NEW	03-09-111	296-52-61040	AMD-X	03-05-073	296-62-07460	AMD-X	03-12-072
296-46B-680	NEW-P	03-05-074	296-52-61040	AMD	03-10-037	296-62-075	AMD-P	03-11-059
296-46B-680	NEW	03-09-111	296-52-62005	AMD-X	03-05-073	296-62-07521	AMD-X	03-12-072
296-46B-700	NEW-P	03-05-074	296-52-62005	AMD	03-10-037	296-62-07719	AMD-X	03-12-072
296-46B-700	NEW	03-09-111	296-52-63005	AMD-X	03-05-073	296-62-080	REP-X	03-04-100
296-46B-800	NEW-P	03-05-074	296-52-63005	AMD	03-10-037	296-62-080	REP	03-10-068
296-46B-800	NEW	03-09-111	296-52-65005	AMD-X	03-05-073	296-62-08001	AMD	03-09-110
296-46B-900	NEW-P	03-05-074	296-52-65005	AMD	03-10-037	296-62-09015	AMD	03-11-060
296-46B-900	NEW	03-09-111	296-52-66005	AMD-X	03-05-073	296-62-11021	REP-X	03-04-100
296-46B-905	NEW-P	03-05-074	296-52-66005	AMD	03-10-037	296-62-11021	REP	03-10-068
296-46B-905	NEW	03-09-111	296-52-67065	AMD	03-06-073	296-62-130	REP-X	03-04-100
296-46B-905	AMD-X	03-13-100	296-52-67160	AMD	03-06-073	296-62-130	REP	03-10-068
296-46B-910	NEW-P	03-05-074	296-52-68060	AMD	03-06-073	296-62-20015	AMD-X	03-12-072
296-46B-910	NEW	03-09-111	296-52-69010	AMD	03-06-073	296-62-300	AMD-P	03-14-074
296-46B-911	NEW-P	03-05-074	296-52-69015	AMD	03-06-073	296-62-31020	AMD-X	03-12-072
296-46B-911	NEW	03-09-111	296-52-69095	AMD	03-06-073	296-62-31335	AMD-X	03-12-072
296-46B-915	NEW-P	03-05-074	296-52-69125	AMD	03-06-073	296-78	PREP	03-10-064
296-46B-915	NEW	03-09-111	296-52-69130	NEW	03-06-073	296-78	PREP	03-10-066
296-46B-920	NEW-P	03-05-074	296-52-70010	AMD	03-06-073	296-78-56505	AMD	03-06-076
296-46B-920	NEW	03-09-111	296-52-710	AMD	03-06-073	296-78-71001	AMD	03-06-076
296-46B-925	NEW-P	03-05-074	296-52-71020	AMD	03-06-073	296-78-71011	AMD	03-06-076
296-46B-925	NEW	03-09-111	296-52-71040	AMD	03-06-073	296-78-835	AMD	03-06-076
296-46B-930	NEW-P	03-05-074	296-52-71045	AMD	03-06-073	296-79	PREP	03-03-110
296-46B-930	NEW	03-09-111	296-54	PREP	03-10-064	296-79	PREP	03-10-064
296-46B-930	AMD-X	03-13-100	296-54	PREP	03-10-066	296-79	PREP	03-10-066
296-46B-935	NEW-P	03-05-074	296-54-51130	AMD	03-11-060	296-96	PREP	03-04-098
296-46B-935	NEW	03-09-111	296-56	PREP	03-03-110	296-96	PREP	03-10-065
296-46B-940	NEW-P	03-05-074	296-56	PREP	03-10-066	296-96-01005	AMD-P	03-09-108
296-46B-940	NEW	03-09-111	296-56-60001	AMD	03-11-060	296-96-01005	AMD	03-12-045
296-46B-945	NEW-P	03-05-074	296-59	PREP	03-03-110	296-96-01030	AMD-P	03-09-108
296-46B-945	NEW	03-09-111	296-59	PREP	03-10-064	296-96-01030	AMD	03-12-045
296-46B-950	NEW-P	03-05-074	296-59-090	AMD	03-11-060	296-96-01050	AMD-P	03-09-108
296-46B-950	NEW	03-09-111	296-62	PREP	03-04-097	296-96-01050	AMD	03-12-045
296-46B-950	AMD-X	03-13-100	296-62	PREP	03-08-073	296-96-01055	AMD-P	03-09-108
296-46B-951	NEW-P	03-05-074	296-62-054	REP-X	03-04-100	296-96-01055	AMD	03-12-045
296-46B-951	NEW	03-09-111	296-62-054	REP	03-10-068	296-104	PREP	03-03-129
296-46B-955	NEW-P	03-05-074	296-62-05402	REP-X	03-04-100	296-104	PREP	03-12-081
296-46B-955	NEW	03-09-111	296-62-05402	REP	03-10-068	296-104-055	AMD-P	03-08-076
296-46B-960	NEW-P	03-05-074	296-62-05404	REP-X	03-04-100	296-104-055	AMD	03-12-051

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-104-700	AMD-P	03-08-076	296-150M-0835	NEW	03-12-044	296-304-06003	AMD	03-04-099
296-104-700	AMD	03-12-051	296-150M-0840	NEW-P	03-09-109	296-304-07009	AMD	03-04-099
296-115-050	AMD-X	03-12-072	296-150M-0840	NEW	03-12-044	296-304-07011	AMD	03-04-099
296-128-500	AMD	03-03-109	296-150M-0845	NEW-P	03-09-109	296-304-07013	AMD	03-04-099
296-128-532	NEW	03-03-109	296-150M-0845	NEW	03-12-044	296-304-08001	AMD	03-04-099
296-128-533	NEW	03-03-109	296-150M-0855	NEW-P	03-09-109	296-304-08009	AMD	03-11-060
296-130-010	AMD	03-03-010	296-150M-0855	NEW	03-12-044	296-304-09009	AMD	03-11-060
296-130-020	AMD	03-03-010	296-150M-0860	NEW-P	03-09-109	296-304-09017	AMD	03-04-099
296-130-030	AMD	03-03-010	296-150M-0860	NEW	03-12-044	296-304-09021	AMD	03-04-099
296-130-035	AMD	03-03-010	296-150M-0865	NEW-P	03-09-109	296-304-09023	AMD	03-04-099
296-130-040	AMD	03-03-010	296-150M-0865	NEW	03-12-044	296-304-10003	AMD	03-04-099
296-130-050	AMD	03-03-010	296-150M-3000	AMD-P	03-09-109	296-304-10007	AMD	03-04-099
296-130-060	AMD	03-03-010	296-150M-3000	AMD	03-12-044	296-305	PREP	03-04-097
296-130-065	AMD	03-03-010	296-150P	PREP	03-10-065	296-305	PREP	03-10-066
296-130-070	AMD	03-03-010	296-150P-0020	AMD-P	03-09-109	296-305-01515	AMD	03-09-110
296-130-080	AMD	03-03-010	296-150P-0020	AMD	03-12-044	296-305-02005	AMD	03-11-060
296-130-100	NEW	03-03-010	296-150P-3000	AMD-P	03-09-108	296-305-02501	AMD	03-09-110
296-130-500	REP	03-03-010	296-150P-3000	AMD	03-12-045	296-305-05503	AMD	03-11-060
296-150C	PREP	03-10-065	296-150R	PREP	03-10-065	296-307	PREP	03-10-064
296-150C-0150	NEW-P	03-09-109	296-150R-0020	AMD-P	03-09-109	296-307	PREP	03-10-066
296-150C-0150	NEW	03-12-044	296-150R-0020	AMD	03-12-044	296-307-009	AMD-X	03-04-100
296-150C-3000	AMD-P	03-09-108	296-150R-3000	AMD-P	03-09-108	296-307-009	AMD	03-10-068
296-150C-3000	AMD	03-12-045	296-150R-3000	AMD	03-12-045	296-307-018	AMD-X	03-04-100
296-150F	PREP	03-10-065	296-150T	PREP	03-10-065	296-307-018	AMD	03-10-068
296-150F-3000	AMD-P	03-09-109	296-150T-3000	AMD-P	03-09-108	296-307-03930	NEW-X	03-04-100
296-150F-3000	AMD	03-12-044	296-150T-3000	AMD	03-12-045	296-307-03930	NEW	03-10-068
296-150M	PREP	03-10-065	296-150V	PREP	03-10-065	296-307-03935	NEW-X	03-04-100
296-150M-0020	AMD-P	03-09-109	296-150V-0020	AMD-P	03-09-109	296-307-03935	NEW	03-10-068
296-150M-0020	AMD	03-12-044	296-150V-0020	AMD	03-12-044	296-307-03940	NEW-X	03-04-100
296-150M-0049	AMD-P	03-09-109	296-150V-0800	AMD-P	03-09-109	296-307-03940	NEW	03-10-068
296-150M-0049	AMD	03-12-044	296-150V-0800	AMD	03-12-044	296-307-03945	NEW-X	03-04-100
296-150M-0050	AMD-P	03-09-109	296-150V-1090	AMD-P	03-09-109	296-307-03945	NEW	03-10-068
296-150M-0050	AMD	03-12-044	296-150V-1090	AMD	03-12-044	296-307-40013	AMD-X	03-04-100
296-150M-0051	NEW-P	03-09-109	296-150V-1220	REP-P	03-09-109	296-307-40013	AMD	03-10-068
296-150M-0051	NEW	03-12-044	296-150V-1220	REP	03-12-044	296-307-40015	AMD-X	03-04-100
296-150M-0302	AMD-P	03-09-109	296-150V-1530	AMD-P	03-09-109	296-307-40015	AMD	03-10-068
296-150M-0302	AMD	03-12-044	296-150V-1530	AMD	03-12-044	296-307-40027	AMD-X	03-04-100
296-150M-0320	AMD-P	03-09-109	296-150V-1600	NEW-P	03-09-109	296-307-40027	AMD	03-10-068
296-150M-0320	AMD	03-12-044	296-150V-1600	NEW	03-12-044	296-307-445	NEW-X	03-04-100
296-150M-0322	NEW-P	03-09-109	296-150V-3000	AMD-P	03-09-108	296-307-445	NEW	03-10-068
296-150M-0322	NEW	03-12-044	296-150V-3000	AMD	03-12-045	296-307-450	AMD-X	03-04-100
296-150M-0360	AMD-P	03-09-109	296-155	PREP	03-04-097	296-307-450	AMD	03-10-068
296-150M-0360	AMD	03-12-044	296-155	PREP	03-10-064	296-307-45001	REP-X	03-04-100
296-150M-0705	NEW-P	03-09-109	296-155	PREP	03-10-066	296-307-45001	REP	03-10-068
296-150M-0705	NEW	03-12-044	296-155-145	AMD	03-11-060	296-307-45003	REP-X	03-04-100
296-150M-0715	NEW-P	03-09-109	296-155-210	AMD	03-11-060	296-307-45003	REP	03-10-068
296-150M-0715	NEW	03-12-044	296-155-300	AMD	03-06-075	296-307-45005	AMD-X	03-04-100
296-150M-0725	NEW-P	03-09-109	296-155-305	AMD	03-06-075	296-307-45005	AMD	03-10-068
296-150M-0725	NEW	03-12-044	296-155-310	AMD	03-06-075	296-307-45007	REP-X	03-04-100
296-150M-0800	NEW-P	03-09-109	296-155-315	AMD	03-06-075	296-307-45007	REP	03-10-068
296-150M-0800	NEW	03-12-044	296-200A	PREP	03-10-065	296-307-45009	REP-X	03-04-100
296-150M-0805	NEW-P	03-09-109	296-304-01001	AMD	03-04-099	296-307-45009	REP	03-10-068
296-150M-0805	NEW	03-12-044	296-304-01003	AMD	03-04-099	296-307-45010	NEW-X	03-04-100
296-150M-0810	NEW-P	03-09-109	296-304-02007	AMD	03-04-099	296-307-45010	NEW	03-10-068
296-150M-0810	NEW	03-12-044	296-304-02009	AMD	03-04-099	296-307-45011	REP-X	03-04-100
296-150M-0815	NEW-P	03-09-109	296-304-03007	AMD	03-04-099	296-307-45011	REP	03-10-068
296-150M-0815	NEW	03-12-044	296-304-04001	AMD	03-04-099	296-307-45013	REP-X	03-04-100
296-150M-0820	NEW-P	03-09-109	296-304-05001	AMD	03-04-099	296-307-45013	REP	03-10-068
296-150M-0820	NEW	03-12-044	296-304-05003	AMD	03-04-099	296-307-45015	AMD-X	03-04-100
296-150M-0830	NEW-P	03-09-109	296-304-05005	AMD	03-04-099	296-307-45015	AMD	03-10-068
296-150M-0830	NEW	03-12-044	296-304-05009	AMD	03-04-099	296-307-45017	REP-X	03-04-100
296-150M-0835	NEW-P	03-09-109	296-304-05013	AMD	03-04-099	296-307-45017	REP	03-10-068

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-307-45019	REP-X	03-04-100	296-307-56005	NEW-X	03-04-100	296-401B-420	REP	03-09-111
296-307-45019	REP	03-10-068	296-307-56005	NEW	03-10-068	296-401B-430	REP-P	03-05-074
296-307-45020	NEW-X	03-04-100	296-307-56010	NEW-X	03-04-100	296-401B-430	REP	03-09-111
296-307-45020	NEW	03-10-068	296-307-56010	NEW	03-10-068	296-401B-440	REP-P	03-05-074
296-307-45021	REP-X	03-04-100	296-307-56015	NEW-X	03-04-100	296-401B-440	REP	03-09-111
296-307-45021	REP	03-10-068	296-307-56015	NEW	03-10-068	296-401B-445	REP-P	03-05-074
296-307-45023	REP-X	03-04-100	296-307-56020	NEW-X	03-04-100	296-401B-445	REP	03-09-111
296-307-45023	REP	03-10-068	296-307-56020	NEW	03-10-068	296-401B-450	REP-P	03-05-074
296-307-45025	AMD-X	03-04-100	296-307-56025	NEW-X	03-04-100	296-401B-450	REP	03-09-111
296-307-45025	AMD	03-10-068	296-307-56025	NEW	03-10-068	296-401B-455	REP-P	03-05-074
296-307-45027	REP-X	03-04-100	296-307-56030	NEW-X	03-04-100	296-401B-455	REP	03-09-111
296-307-45027	REP	03-10-068	296-307-56030	NEW	03-10-068	296-401B-460	REP-P	03-05-074
296-307-45029	REP-X	03-04-100	296-307-56035	NEW-X	03-04-100	296-401B-460	REP	03-09-111
296-307-45029	REP	03-10-068	296-307-56035	NEW	03-10-068	296-401B-470	REP-P	03-05-074
296-307-45030	NEW-X	03-04-100	296-307-56040	NEW-X	03-04-100	296-401B-470	REP	03-09-111
296-307-45030	NEW	03-10-068	296-307-56040	NEW	03-10-068	296-401B-475	REP-P	03-05-074
296-307-45035	NEW-X	03-04-100	296-307-56045	NEW-X	03-04-100	296-401B-475	REP	03-09-111
296-307-45035	NEW	03-10-068	296-307-56045	NEW	03-10-068	296-401B-476	REP-P	03-05-074
296-307-45045	NEW-X	03-04-100	296-307-56050	NEW-X	03-04-100	296-401B-476	REP	03-09-111
296-307-45045	NEW	03-10-068	296-307-56050	NEW	03-10-068	296-401B-500	REP-P	03-05-074
296-307-45050	NEW-X	03-04-100	296-400A	PREP	03-10-065	296-401B-500	REP	03-09-111
296-307-45050	NEW	03-10-068	296-400A-045	AMD-P	03-09-108	296-401B-510	REP-P	03-05-074
296-307-455	NEW-X	03-04-100	296-400A-045	AMD	03-12-045	296-401B-510	REP	03-09-111
296-307-455	NEW	03-10-068	296-401B-092	REP-P	03-05-074	296-401B-520	REP-P	03-05-074
296-307-45505	NEW-X	03-04-100	296-401B-092	REP	03-09-111	296-401B-520	REP	03-09-111
296-307-45505	NEW	03-10-068	296-401B-100	REP-P	03-05-074	296-401B-600	REP-P	03-05-074
296-307-45510	NEW-X	03-04-100	296-401B-100	REP	03-09-111	296-401B-600	REP	03-09-111
296-307-45510	NEW	03-10-068	296-401B-110	REP-P	03-05-074	296-401B-610	REP-P	03-05-074
296-307-45515	NEW-X	03-04-100	296-401B-110	REP	03-09-111	296-401B-610	REP	03-09-111
296-307-45515	NEW	03-10-068	296-401B-120	REP-P	03-05-074	296-401B-620	REP-P	03-05-074
296-307-45520	NEW-X	03-04-100	296-401B-120	REP	03-09-111	296-401B-620	REP	03-09-111
296-307-45520	NEW	03-10-068	296-401B-130	REP-P	03-05-074	296-401B-630	REP-P	03-05-074
296-307-45525	NEW-X	03-04-100	296-401B-130	REP	03-09-111	296-401B-630	REP	03-09-111
296-307-45525	NEW	03-10-068	296-401B-140	REP-P	03-05-074	296-401B-640	REP-P	03-05-074
296-307-45535	NEW-X	03-04-100	296-401B-140	REP	03-09-111	296-401B-640	REP	03-09-111
296-307-45535	NEW	03-10-068	296-401B-180	REP-P	03-05-074	296-401B-700	REP-P	03-05-074
296-307-45540	NEW-X	03-04-100	296-401B-180	REP	03-09-111	296-401B-700	REP	03-09-111
296-307-45540	NEW	03-10-068	296-401B-200	REP-P	03-05-074	296-401B-800	REP-P	03-05-074
296-307-45545	NEW-X	03-04-100	296-401B-200	REP	03-09-111	296-401B-800	REP	03-09-111
296-307-45545	NEW	03-10-068	296-401B-250	REP-P	03-05-074	296-401B-850	REP-P	03-05-074
296-307-45550	NEW-X	03-04-100	296-401B-250	REP	03-09-111	296-401B-850	REP	03-09-111
296-307-45550	NEW	03-10-068	296-401B-260	REP-P	03-05-074	296-401B-860	REP-P	03-05-074
296-307-45555	NEW-X	03-04-100	296-401B-260	REP	03-09-111	296-401B-860	REP	03-09-111
296-307-45555	NEW	03-10-068	296-401B-270	REP-P	03-05-074	296-401B-870	REP-P	03-05-074
296-307-45560	NEW-X	03-04-100	296-401B-270	REP	03-09-111	296-401B-870	REP	03-09-111
296-307-45560	NEW	03-10-068	296-401B-300	REP-P	03-05-074	296-401B-900	REP-P	03-05-074
296-307-45565	NEW-X	03-04-100	296-401B-300	REP	03-09-111	296-401B-900	REP	03-09-111
296-307-45565	NEW	03-10-068	296-401B-310	REP-P	03-05-074	296-401B-910	REP-P	03-05-074
296-307-460	NEW-X	03-04-100	296-401B-310	REP	03-09-111	296-401B-910	REP	03-09-111
296-307-460	NEW	03-10-068	296-401B-320	REP-P	03-05-074	296-401B-920	REP-P	03-05-074
296-307-46005	NEW-X	03-04-100	296-401B-320	REP	03-09-111	296-401B-920	REP	03-09-111
296-307-46005	NEW	03-10-068	296-401B-330	REP-P	03-05-074	296-401B-950	REP-P	03-05-074
296-307-46025	NEW-X	03-04-100	296-401B-330	REP	03-09-111	296-401B-950	REP	03-09-111
296-307-46025	NEW	03-10-068	296-401B-335	REP-P	03-05-074	296-401B-960	REP-P	03-05-074
296-307-46030	NEW-X	03-04-100	296-401B-335	REP	03-09-111	296-401B-960	REP	03-09-111
296-307-46030	NEW	03-10-068	296-401B-340	REP-P	03-05-074	296-401B-970	REP-P	03-05-074
296-307-465	NEW-X	03-04-100	296-401B-340	REP	03-09-111	296-401B-970	REP	03-09-111
296-307-465	NEW	03-10-068	296-401B-350	REP-P	03-05-074	296-401B-980	REP-P	03-05-074
296-307-55030	AMD-X	03-04-100	296-401B-350	REP	03-09-111	296-401B-980	REP	03-09-111
296-307-55030	AMD	03-10-068	296-401B-410	REP-P	03-05-074	296-401B-990	REP-P	03-05-074
296-307-560	NEW-X	03-04-100	296-401B-410	REP	03-09-111	296-401B-990	REP	03-09-111
296-307-560	NEW	03-10-068	296-401B-420	REP-P	03-05-074	296-402A-010	REP-P	03-05-074

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-402A-010	REP	03-09-111	296-402A-340	REP	03-09-111	296-402A-660	REP	03-09-111
296-402A-020	REP-P	03-05-074	296-402A-350	REP-P	03-05-074	296-402A-670	REP-P	03-05-074
296-402A-020	REP	03-09-111	296-402A-350	REP	03-09-111	296-402A-670	REP	03-09-111
296-402A-030	REP-P	03-05-074	296-402A-360	REP-P	03-05-074	296-402A-675	REP-P	03-05-074
296-402A-030	REP	03-09-111	296-402A-360	REP	03-09-111	296-402A-675	REP	03-09-111
296-402A-040	REP-P	03-05-074	296-402A-370	REP-P	03-05-074	296-402A-680	REP-P	03-05-074
296-402A-040	REP	03-09-111	296-402A-370	REP	03-09-111	296-402A-680	REP	03-09-111
296-402A-050	REP-P	03-05-074	296-402A-380	REP-P	03-05-074	296-402A-690	REP-P	03-05-074
296-402A-050	REP	03-09-111	296-402A-380	REP	03-09-111	296-402A-690	REP	03-09-111
296-402A-060	REP-P	03-05-074	296-402A-390	REP-P	03-05-074	296-800	PREP	03-04-097
296-402A-060	REP	03-09-111	296-402A-390	REP	03-09-111	296-800-110	AMD-X	03-12-072
296-402A-070	REP-P	03-05-074	296-402A-400	REP-P	03-05-074	296-800-11030	AMD-X	03-12-072
296-402A-070	REP	03-09-111	296-402A-400	REP	03-09-111	296-800-15005	AMD	03-09-110
296-402A-080	REP-P	03-05-074	296-402A-410	REP-P	03-05-074	296-800-170	AMD-X	03-12-072
296-402A-080	REP	03-09-111	296-402A-410	REP	03-09-111	296-800-17005	AMD-X	03-12-072
296-402A-090	REP-P	03-05-074	296-402A-430	REP-P	03-05-074	296-800-17007	NEW-X	03-12-072
296-402A-090	REP	03-09-111	296-402A-430	REP	03-09-111	296-800-17015	AMD-X	03-12-072
296-402A-100	REP-P	03-05-074	296-402A-440	REP-P	03-05-074	296-800-17020	AMD-X	03-12-072
296-402A-100	REP	03-09-111	296-402A-440	REP	03-09-111	296-800-230	AMD-X	03-12-072
296-402A-110	REP-P	03-05-074	296-402A-450	REP-P	03-05-074	296-800-23005	AMD-X	03-12-072
296-402A-110	REP	03-09-111	296-402A-450	REP	03-09-111	296-800-23010	AMD-X	03-12-072
296-402A-130	REP-P	03-05-074	296-402A-460	REP-P	03-05-074	296-800-23020	AMD-X	03-12-072
296-402A-130	REP	03-09-111	296-402A-460	REP	03-09-111	296-800-23025	AMD-X	03-12-072
296-402A-140	REP-P	03-05-074	296-402A-470	REP-P	03-05-074	296-800-23030	REP-X	03-12-072
296-402A-140	REP	03-09-111	296-402A-470	REP	03-09-111	296-800-23035	REP-X	03-12-072
296-402A-150	REP-P	03-05-074	296-402A-480	REP-P	03-05-074	296-800-23040	NEW-X	03-12-072
296-402A-150	REP	03-09-111	296-402A-480	REP	03-09-111	296-800-23045	NEW-X	03-12-072
296-402A-160	REP-P	03-05-074	296-402A-490	REP-P	03-05-074	296-800-23050	NEW-X	03-12-072
296-402A-160	REP	03-09-111	296-402A-490	REP	03-09-111	296-800-23055	NEW-X	03-12-072
296-402A-170	REP-P	03-05-074	296-402A-500	REP-P	03-05-074	296-800-23060	NEW-X	03-12-072
296-402A-170	REP	03-09-111	296-402A-500	REP	03-09-111	296-800-23065	NEW-X	03-12-072
296-402A-180	REP-P	03-05-074	296-402A-510	REP-P	03-05-074	296-800-23070	NEW-X	03-12-072
296-402A-180	REP	03-09-111	296-402A-510	REP	03-09-111	296-800-23075	NEW-X	03-12-072
296-402A-190	REP-P	03-05-074	296-402A-520	REP-P	03-05-074	296-800-31050	AMD-X	03-12-072
296-402A-190	REP	03-09-111	296-402A-520	REP	03-09-111	296-800-350	AMD-X	03-12-072
296-402A-200	REP-P	03-05-074	296-402A-530	REP-P	03-05-074	296-800-35038	AMD-X	03-12-072
296-402A-200	REP	03-09-111	296-402A-530	REP	03-09-111	296-800-35040	AMD-X	03-12-072
296-402A-210	REP-P	03-05-074	296-402A-540	REP-P	03-05-074	296-800-35062	AMD-X	03-12-072
296-402A-210	REP	03-09-111	296-402A-540	REP	03-09-111	296-800-35064	AMD-X	03-12-072
296-402A-220	REP-P	03-05-074	296-402A-550	REP-P	03-05-074	296-800-370	AMD-X	03-12-072
296-402A-220	REP	03-09-111	296-402A-550	REP	03-09-111	296-807-100	NEW	03-09-009
296-402A-230	REP-P	03-05-074	296-402A-560	REP-P	03-05-074	296-807-110	NEW	03-09-009
296-402A-230	REP	03-09-111	296-402A-560	REP	03-09-111	296-807-11005	NEW	03-09-009
296-402A-240	REP-P	03-05-074	296-402A-570	REP-P	03-05-074	296-807-120	NEW	03-09-009
296-402A-240	REP	03-09-111	296-402A-570	REP	03-09-111	296-807-12005	NEW	03-09-009
296-402A-250	REP-P	03-05-074	296-402A-580	REP-P	03-05-074	296-807-130	NEW	03-09-009
296-402A-250	REP	03-09-111	296-402A-580	REP	03-09-111	296-807-13005	NEW	03-09-009
296-402A-260	REP-P	03-05-074	296-402A-590	REP-P	03-05-074	296-807-140	NEW	03-09-009
296-402A-260	REP	03-09-111	296-402A-590	REP	03-09-111	296-807-14005	NEW	03-09-009
296-402A-270	REP-P	03-05-074	296-402A-600	REP-P	03-05-074	296-807-14010	NEW	03-09-009
296-402A-270	REP	03-09-111	296-402A-600	REP	03-09-111	296-807-14015	NEW	03-09-009
296-402A-290	REP-P	03-05-074	296-402A-610	REP-P	03-05-074	296-807-14020	NEW	03-09-009
296-402A-290	REP	03-09-111	296-402A-610	REP	03-09-111	296-807-14025	NEW	03-09-009
296-402A-300	REP-P	03-05-074	296-402A-620	REP-P	03-05-074	296-807-14030	NEW	03-09-009
296-402A-300	REP	03-09-111	296-402A-620	REP	03-09-111	296-807-14035	NEW	03-09-009
296-402A-310	REP-P	03-05-074	296-402A-630	REP-P	03-05-074	296-807-14040	NEW	03-09-009
296-402A-310	REP	03-09-111	296-402A-630	REP	03-09-111	296-807-150	NEW	03-09-009
296-402A-320	REP-P	03-05-074	296-402A-640	REP-P	03-05-074	296-807-15005	NEW	03-09-009
296-402A-320	REP	03-09-111	296-402A-640	REP	03-09-111	296-807-15010	NEW	03-09-009
296-402A-330	REP-P	03-05-074	296-402A-650	REP-P	03-05-074	296-807-15015	NEW	03-09-009
296-402A-330	REP	03-09-111	296-402A-650	REP	03-09-111	296-807-15020	NEW	03-09-009
296-402A-340	REP-P	03-05-074	296-402A-660	REP-P	03-05-074	296-807-15025	NEW	03-09-009

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-807-15030	NEW	03-09-009	296-817-04015	NEW-W	03-13-096	296-823-150	NEW	03-09-110
296-807-15035	NEW	03-09-009	296-817-04020	NEW-W	03-13-096	296-823-15005	NEW	03-09-110
296-807-15040	NEW	03-09-009	296-817-04025	NEW-W	03-13-096	296-823-15010	NEW	03-09-110
296-807-15045	NEW	03-09-009	296-817-050	NEW-W	03-13-096	296-823-15015	NEW	03-09-110
296-807-15050	NEW	03-09-009	296-817-100	NEW	03-11-060	296-823-15020	NEW	03-09-110
296-807-15055	NEW	03-09-009	296-817-200	NEW	03-11-060	296-823-15025	NEW	03-09-110
296-807-160	NEW	03-09-009	296-817-20005	NEW	03-11-060	296-823-15030	NEW	03-09-110
296-807-16005	NEW	03-09-009	296-817-20010	NEW	03-11-060	296-823-160	NEW	03-09-110
296-807-16010	NEW	03-09-009	296-817-20015	NEW	03-11-060	296-823-16005	NEW	03-09-110
296-807-16015	NEW	03-09-009	296-817-20020	NEW	03-11-060	296-823-16010	NEW	03-09-110
296-807-16020	NEW	03-09-009	296-817-20025	NEW	03-11-060	296-823-16015	NEW	03-09-110
296-807-16025	NEW	03-09-009	296-817-20030	NEW	03-11-060	296-823-16020	NEW	03-09-110
296-807-16030	NEW	03-09-009	296-817-20035	NEW	03-11-060	296-823-16025	NEW	03-09-110
296-807-16035	NEW	03-09-009	296-817-20040	NEW	03-11-060	296-823-16030	NEW	03-09-110
296-807-170	NEW	03-09-009	296-817-300	NEW	03-11-060	296-823-16035	NEW-W	03-14-136
296-807-17005	NEW	03-09-009	296-817-30005	NEW	03-11-060	296-823-16040	NEW-W	03-14-136
296-807-17010	NEW	03-09-009	296-817-30010	NEW	03-11-060	296-823-16045	NEW-W	03-14-136
296-807-17015	NEW	03-09-009	296-817-30015	NEW	03-11-060	296-823-170	NEW	03-09-110
296-807-17020	NEW	03-09-009	296-817-400	NEW	03-11-060	296-823-17005	NEW	03-09-110
296-807-180	NEW	03-09-009	296-817-40005	NEW	03-11-060	296-823-17010	NEW	03-09-110
296-807-18005	NEW	03-09-009	296-817-40010	NEW	03-11-060	296-823-17015	NEW-W	03-14-136
296-807-18010	NEW	03-09-009	296-817-40015	NEW	03-11-060	296-823-17020	NEW-W	03-14-136
296-807-18015	NEW	03-09-009	296-817-40020	NEW	03-11-060	296-823-17025	NEW-W	03-14-136
296-807-18020	NEW	03-09-009	296-817-40025	NEW	03-11-060	296-823-17030	NEW-W	03-14-136
296-807-18025	NEW	03-09-009	296-817-40030	NEW	03-11-060	296-823-180	NEW	03-09-110
296-807-18030	NEW	03-09-009	296-817-40035	NEW	03-11-060	296-823-18005	NEW	03-09-110
296-807-18035	NEW	03-09-009	296-817-500	NEW	03-11-060	296-823-18010	NEW	03-09-110
296-807-18040	NEW	03-09-009	296-817-50005	NEW	03-11-060	296-823-18015	NEW	03-09-110
296-807-18045	NEW	03-09-009	296-817-50010	NEW	03-11-060	296-823-18020	NEW	03-09-110
296-807-18050	NEW	03-09-009	296-817-50015	NEW	03-11-060	296-823-18025	NEW	03-09-110
296-807-18055	NEW	03-09-009	296-817-50020	NEW	03-11-060	296-823-18030	NEW	03-09-110
296-807-18060	NEW	03-09-009	296-817-50025	NEW	03-11-060	296-823-18035	NEW	03-09-110
296-807-18065	NEW	03-09-009	296-817-600	NEW	03-11-060	296-823-18040	NEW	03-09-110
296-807-18070	NEW	03-09-009	296-823-100	NEW	03-09-110	296-823-18045	NEW	03-09-110
296-807-18075	NEW	03-09-009	296-823-110	NEW	03-09-110	296-823-18050	NEW	03-09-110
296-807-18080	NEW	03-09-009	296-823-11005	NEW	03-09-110	296-823-18055	NEW	03-09-110
296-807-18085	NEW	03-09-009	296-823-11010	NEW	03-09-110	296-823-190	NEW-W	03-14-136
296-807-190	NEW	03-09-009	296-823-120	NEW	03-09-110	296-823-19005	NEW-W	03-14-136
296-817-010	NEW-W	03-13-096	296-823-12005	NEW	03-09-110	296-823-19010	NEW-W	03-14-136
296-817-01005	NEW-W	03-13-096	296-823-12010	NEW	03-09-110	296-823-19015	NEW-W	03-14-136
296-817-01010	NEW-W	03-13-096	296-823-12015	NEW	03-09-110	296-823-19020	NEW-W	03-14-136
296-817-01015	NEW-W	03-13-096	296-823-130	NEW	03-09-110	296-823-19025	NEW-W	03-14-136
296-817-01020	NEW-W	03-13-096	296-823-13005	NEW	03-09-110	296-823-19030	NEW-W	03-14-136
296-817-01025	NEW-W	03-13-096	296-823-13010	NEW	03-09-110	296-823-19035	NEW-W	03-14-136
296-817-01030	NEW-W	03-13-096	296-823-13015	NEW-W	03-14-136	296-823-19040	NEW-W	03-14-136
296-817-01035	NEW-W	03-13-096	296-823-13020	NEW-W	03-14-136	296-823-19045	NEW-W	03-14-136
296-817-01040	NEW-W	03-13-096	296-823-13025	NEW-W	03-14-136	296-823-19050	NEW-W	03-14-136
296-817-020	NEW-W	03-13-096	296-823-13030	NEW-W	03-14-136	296-823-19055	NEW-W	03-14-136
296-817-02005	NEW-W	03-13-096	296-823-140	NEW	03-09-110	296-824-200	NEW	03-09-110
296-817-02010	NEW-W	03-13-096	296-823-14005	NEW	03-09-110	296-824-50030	AMD	03-09-110
296-817-02015	NEW-W	03-13-096	296-823-14010	NEW	03-09-110	296-831-100	NEW-P	03-14-075
296-817-030	NEW-W	03-13-096	296-823-14015	NEW	03-09-110	296-831-200	NEW-P	03-14-075
296-817-03005	NEW-W	03-13-096	296-823-14020	NEW	03-09-110	296-831-210	NEW-P	03-14-075
296-817-03010	NEW-W	03-13-096	296-823-14025	NEW	03-09-110	296-831-21005	NEW-P	03-14-075
296-817-03015	NEW-W	03-13-096	296-823-14030	NEW	03-09-110	296-831-21010	NEW-P	03-14-075
296-817-03020	NEW-W	03-13-096	296-823-14035	NEW	03-09-110	296-831-21015	NEW-P	03-14-075
296-817-03025	NEW-W	03-13-096	296-823-14040	NEW	03-09-110	296-831-21020	NEW-P	03-14-075
296-817-03030	NEW-W	03-13-096	296-823-14045	NEW	03-09-110	296-831-21025	NEW-P	03-14-075
296-817-03035	NEW-W	03-13-096	296-823-14050	NEW	03-09-110	296-831-21030	NEW-P	03-14-075
296-817-040	NEW-W	03-13-096	296-823-14055	NEW	03-09-110	296-831-21035	NEW-P	03-14-075
296-817-04005	NEW-W	03-13-096	296-823-14060	NEW	03-09-110	296-831-21040	NEW-P	03-14-075
296-817-04010	NEW-W	03-13-096	296-823-14065	NEW	03-09-110	296-831-21045	NEW-P	03-14-075

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-843-15015	NEW-P	03-14-074	308- 20-530	REP	03-14-046	308- 56A-320	AMD	03-12-071
296-843-160	NEW-P	03-14-074	308- 20-550	AMD-P	03-10-085	308- 56A-325	AMD-P	03-08-093
296-843-16005	NEW-P	03-14-074	308- 20-550	AMD	03-14-046	308- 56A-325	AMD	03-12-071
296-843-170	NEW-P	03-14-074	308- 20-560	AMD-P	03-10-085	308- 56A-330	AMD-P	03-08-093
296-843-17005	NEW-P	03-14-074	308- 20-560	AMD	03-14-046	308- 56A-330	AMD	03-12-071
296-843-180	NEW-P	03-14-074	308- 20-570	AMD-P	03-10-085	308- 56A-455	AMD-P	03-06-040
296-843-18005	NEW-P	03-14-074	308- 20-570	AMD	03-14-046	308- 56A-455	AMD	03-10-097
296-843-18010	NEW-P	03-14-074	308- 20-575	NEW-P	03-10-085	308- 56A-455	PREP	03-14-022
296-843-18015	NEW-P	03-14-074	308- 20-575	NEW	03-14-046	308- 56A-460	PREP	03-14-022
296-843-18020	NEW-P	03-14-074	308- 20-600	AMD-P	03-10-085	308- 56A-640	PREP-W	03-07-078
296-843-190	NEW-P	03-14-074	308- 20-600	AMD	03-14-046	308- 56A-640	AMD-P	03-09-031
296-843-19005	NEW-P	03-14-074	308- 20-710	AMD-P	03-10-085	308- 56A-640	AMD-W	03-09-075
296-843-200	NEW-P	03-14-074	308- 20-710	AMD	03-14-046	308- 57	PREP-W	03-07-077
296-843-20005	NEW-P	03-14-074	308- 48-800	PREP	03-04-076	308- 57-030	PREP	03-12-018
296-843-20010	NEW-P	03-14-074	308- 48-800	AMD-P	03-08-010	308- 88	PREP	03-11-069A
296-843-20015	NEW-P	03-14-074	308- 48-800	AMD	03-11-021	308- 90-040	PREP	03-14-095
296-843-20020	NEW-P	03-14-074	308- 56A-020	AMD	03-05-081	308- 93-230	AMD-P	03-10-045
296-843-20025	NEW-P	03-14-074	308- 56A-021	AMD-P	03-07-080	308- 93-370	AMD	03-07-076
296-843-20030	NEW-P	03-14-074	308- 56A-021	AMD	03-11-069	308- 93-380	AMD	03-07-076
296-843-20035	NEW-P	03-14-074	308- 56A-030	AMD	03-05-081	308- 93-390	AMD	03-07-076
296-843-210	NEW-P	03-14-074	308- 56A-040	AMD	03-05-081	308- 93-440	AMD	03-07-076
296-843-21005	NEW-P	03-14-074	308- 56A-056	AMD	03-05-081	308- 96A-021	AMD	03-05-080
296-843-220	NEW-P	03-14-074	308- 56A-060	AMD	03-05-081	308- 96A-026	PREP	03-14-021
296-843-22005	NEW-P	03-14-074	308- 56A-065	AMD-P	03-06-040	308- 96A-047	NEW	03-05-080
296-843-22010	NEW-P	03-14-074	308- 56A-065	AMD	03-10-097	308- 96A-074	AMD	03-05-082
296-843-300	NEW-P	03-14-074	308- 56A-070	AMD-P	03-08-093	308- 96A-099	PREP	03-14-021
296-878	PREP	03-03-110	308- 56A-070	AMD	03-12-071	308- 96A-136	PREP	03-14-021
308- 13-150	PREP	03-04-056	308- 56A-075	AMD-P	03-06-040	308- 96A-177	REP	03-05-080
308- 13-150	AMD-P	03-08-062	308- 56A-075	AMD	03-10-097	308- 96A-314	AMD	03-05-082
308- 13-150	AMD	03-11-074	308- 56A-110	AMD	03-05-081	308- 96A-316	AMD	03-05-082
308- 15	PREP	03-04-080	308- 56A-115	AMD	03-05-081	308- 96A-550	AMD	03-05-082
308- 17-120	AMD	03-03-024	308- 56A-140	AMD-P	03-05-001	308- 97-011	PREP	03-13-018
308- 17-240	AMD	03-03-024	308- 56A-140	AMD	03-12-006	308- 97-125	PREP	03-13-018
308- 20	PREP	03-10-084	308- 56A-150	AMD-P	03-05-001	308- 97-230	PREP	03-13-018
308- 20-010	AMD-P	03-10-085	308- 56A-150	AMD	03-05-081	308- 99-040	AMD	03-04-092
308- 20-010	AMD	03-14-046	308- 56A-150	AMD	03-12-006	308-100-090	AMD-P	03-07-097
308- 20-040	AMD-P	03-10-085	308- 56A-150	PREP	03-14-022	308-100-090	AMD	03-10-024
308- 20-040	AMD	03-14-046	308- 56A-160	AMD-P	03-05-001	308-100-180	AMD-P	03-07-097
308- 20-080	AMD-P	03-10-085	308- 56A-160	AMD	03-12-006	308-100-180	AMD	03-10-024
308- 20-090	AMD-P	03-10-085	308- 56A-160	PREP	03-14-022	308-124B-150	AMD-P	03-09-059
308- 20-090	AMD	03-14-046	308- 56A-200	AMD-P	03-05-001	308-124B-150	AMD	03-14-019
308- 20-091	NEW-P	03-10-085	308- 56A-200	AMD	03-12-006	308-124C-010	PREP	03-09-049
308- 20-091	NEW	03-14-046	308- 56A-210	AMD	03-05-081	308-124C-020	PREP	03-09-049
308- 20-105	AMD-P	03-10-085	308- 56A-210	PREP	03-14-022	308-124E-013	PREP	03-09-049
308- 20-105	AMD	03-14-046	308- 56A-215	AMD-P	03-05-001	308-124E-013	AMD-P	03-13-024
308- 20-107	AMD-P	03-10-085	308- 56A-215	AMD	03-12-006	308-124H-029	PREP	03-03-080
308- 20-107	AMD	03-14-046	308- 56A-250	AMD-P	03-03-095	308-124H-029	AMD-P	03-09-058
308- 20-110	AMD-P	03-10-085	308- 56A-250	AMD	03-08-055	308-124H-029	AMD	03-14-020
308- 20-110	AMD	03-14-046	308- 56A-265	AMD-P	03-03-095	308-124H-061	PREP	03-03-080
308- 20-120	AMD-P	03-05-058	308- 56A-265	AMD	03-08-055	308-124H-061	AMD-P	03-09-058
308- 20-120	AMD	03-08-043	308- 56A-270	AMD-P	03-03-095	308-124H-061	AMD	03-14-020
308- 20-120	AMD-P	03-10-085	308- 56A-270	AMD	03-08-055	308-125-090	AMD-P	03-11-050
308- 20-120	AMD	03-14-046	308- 56A-275	AMD-P	03-03-095	308-125-090	AMD	03-14-091
308- 20-180	REP-P	03-10-085	308- 56A-275	AMD	03-08-055	308-129-100	AMD	03-03-055
308- 20-180	REP	03-14-046	308- 56A-295	AMD	03-05-081	308-129-110	PREP	03-14-047
308- 20-210	AMD-P	03-03-119	308- 56A-300	AMD-P	03-08-093	308-420-010	REP	03-03-054
308- 20-210	AMD	03-06-054	308- 56A-300	AMD	03-12-071	308-420-020	AMD	03-03-054
308- 20-210	AMD-P	03-10-085	308- 56A-305	AMD-P	03-08-093	308-420-050	AMD	03-03-054
308- 20-210	AMD	03-14-046	308- 56A-305	AMD	03-12-071	308-420-060	AMD	03-03-054
308- 20-520	AMD-P	03-10-085	308- 56A-315	AMD-P	03-08-093	308-420-070	AMD	03-03-054
308- 20-520	AMD	03-14-046	308- 56A-315	AMD	03-12-071	308-420-080	REP	03-03-054
308- 20-530	REP-P	03-10-085	308- 56A-320	AMD-P	03-08-093	308-420-090	AMD	03-03-054

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
308-420-100	AMD	03-03-054	316-45-230	AMD	03-12-074	316-55-600	AMD	03-12-074
308-420-130	REP	03-03-054	316-45-250	AMD-X	03-08-070	316-55-700	AMD-X	03-08-070
308-420-140	AMD	03-03-054	316-45-250	AMD	03-12-074	316-55-700	AMD	03-12-074
308-420-190	AMD	03-03-054	316-45-270	AMD-X	03-08-070	316-55-710	AMD-X	03-08-070
308-420-200	AMD	03-03-054	316-45-270	AMD	03-12-074	316-55-710	AMD	03-12-074
308-420-210	AMD	03-03-054	316-45-290	AMD-X	03-08-070	316-55-730	AMD-X	03-08-070
308-420-230	AMD	03-03-054	316-45-290	AMD	03-12-074	316-55-730	AMD	03-12-074
314-12-170	REP-P	03-02-097	316-45-310	AMD-X	03-08-070	352-28	PREP	03-04-115
314-12-170	REP	03-09-015	316-45-310	AMD	03-12-074	352-40	PREP	03-04-038
314-12-180	REP-P	03-02-097	316-45-330	AMD-X	03-08-070	352-40-010	AMD-P	03-08-101
314-12-180	REP	03-09-015	316-45-330	AMD	03-12-074	352-40-010	AMD	03-11-068
314-12-300	REP-P	03-02-097	316-45-350	AMD-X	03-08-070	352-40-020	AMD-P	03-08-101
314-12-300	REP	03-09-015	316-45-350	AMD	03-12-074	352-40-020	AMD	03-11-068
314-12-310	REP-P	03-02-097	316-45-370	AMD-X	03-08-070	352-40-030	AMD-P	03-08-101
314-12-310	REP	03-09-015	316-45-370	AMD	03-12-074	352-40-030	AMD	03-11-068
314-12-320	REP-P	03-02-097	316-45-390	AMD-X	03-08-070	352-40-040	AMD-P	03-08-101
314-12-320	REP	03-09-015	316-45-390	AMD	03-12-074	352-40-040	AMD	03-11-068
314-12-330	REP-P	03-02-097	316-45-410	AMD-X	03-08-070	352-40-050	REP-P	03-08-101
314-12-330	REP	03-09-015	316-45-410	AMD	03-12-074	352-40-050	REP	03-11-068
314-12-340	REP-P	03-02-097	316-45-430	AMD-X	03-08-070	352-40-060	AMD-P	03-08-101
314-12-340	REP	03-09-015	316-45-430	AMD	03-12-074	352-40-060	AMD	03-11-068
314-29-003	NEW-P	03-02-097	316-45-550	AMD-X	03-08-070	352-40-070	AMD-P	03-08-101
314-29-003	NEW	03-09-015	316-45-550	AMD	03-12-074	352-40-070	AMD	03-11-068
314-29-015	NEW-P	03-02-097	316-55-001	AMD-X	03-08-070	352-40-080	AMD-P	03-08-101
314-29-015	NEW	03-09-015	316-55-001	AMD	03-12-074	352-40-080	AMD	03-11-068
314-29-020	NEW-P	03-02-097	316-55-005	AMD-X	03-08-070	352-40-090	AMD-P	03-08-101
314-29-020	NEW	03-09-015	316-55-005	AMD	03-12-074	352-40-090	AMD	03-11-068
314-29-025	NEW-P	03-02-097	316-55-010	AMD-X	03-08-070	352-40-100	AMD-P	03-08-101
314-29-025	NEW	03-09-015	316-55-010	AMD	03-12-074	352-40-100	AMD	03-11-068
314-29-030	NEW-P	03-02-097	316-55-020	AMD-X	03-08-070	352-40-110	AMD-P	03-08-101
314-29-030	NEW	03-09-015	316-55-020	AMD	03-12-074	352-40-110	AMD	03-11-068
314-29-035	NEW-P	03-02-097	316-55-030	AMD-X	03-08-070	352-40-120	AMD-P	03-08-101
314-29-035	NEW	03-09-015	316-55-030	AMD	03-12-074	352-40-120	AMD	03-11-068
314-29-040	NEW-P	03-02-097	316-55-070	AMD-X	03-08-070	352-40-125	REP-P	03-08-101
314-29-040	NEW	03-09-015	316-55-070	AMD	03-12-074	352-40-125	REP	03-11-068
315-04-065	NEW-C	03-07-067	316-55-090	AMD-X	03-08-070	352-40-127	REP-P	03-08-101
315-04-065	NEW	03-11-054	316-55-090	AMD	03-12-074	352-40-127	REP	03-11-068
316-45-001	AMD-X	03-08-070	316-55-110	AMD-X	03-08-070	352-40-130	AMD-P	03-08-101
316-45-001	AMD	03-12-074	316-55-110	AMD	03-12-074	352-40-130	AMD	03-11-068
316-45-003	AMD-X	03-08-070	316-55-120	AMD-X	03-08-070	352-40-140	REP-P	03-08-101
316-45-003	AMD	03-12-074	316-55-120	AMD	03-12-074	352-40-140	REP	03-11-068
316-45-010	AMD-X	03-08-070	316-55-130	AMD-X	03-08-070	352-40-150	AMD-P	03-08-101
316-45-010	AMD	03-12-074	316-55-130	AMD	03-12-074	352-40-150	AMD	03-11-068
316-45-020	AMD-X	03-08-070	316-55-150	AMD-X	03-08-070	352-40-900	REP-P	03-08-101
316-45-020	AMD	03-12-074	316-55-150	AMD	03-12-074	352-40-900	REP	03-11-068
316-45-030	AMD-X	03-08-070	316-55-160	AMD-X	03-08-070	356-06-065	AMD-X	03-12-092
316-45-030	AMD	03-12-074	316-55-160	AMD	03-12-074	363-116-185	AMD-P	03-09-135
316-45-050	AMD-X	03-08-070	316-55-170	AMD-X	03-08-070	363-116-185	AMD	03-14-042
316-45-050	AMD	03-12-074	316-55-170	AMD	03-12-074	363-116-300	AMD-P	03-08-058
316-45-110	AMD-X	03-08-070	316-55-500	AMD-X	03-08-070	363-116-300	AMD	03-12-019
316-45-110	AMD	03-12-074	316-55-500	AMD	03-12-074	363-116-365	NEW-P	03-06-061
316-45-130	AMD-X	03-08-070	316-55-505	AMD-X	03-08-070	363-116-365	NEW	03-09-097
316-45-130	AMD	03-12-074	316-55-505	AMD	03-12-074	363-116-405	NEW-P	03-06-060
316-45-150	AMD-X	03-08-070	316-55-510	AMD-X	03-08-070	363-116-405	NEW	03-09-096
316-45-150	AMD	03-12-074	316-55-510	AMD	03-12-074	365-210-030	AMD	03-07-035
316-45-170	AMD-X	03-08-070	316-55-515	AMD-X	03-08-070	365-210-060	AMD	03-07-035
316-45-170	AMD	03-12-074	316-55-515	AMD	03-12-074	365-210-061	NEW	03-07-035
316-45-190	AMD-X	03-08-070	316-55-517	AMD-X	03-08-070	365-210-062	NEW	03-07-035
316-45-190	AMD	03-12-074	316-55-517	AMD	03-12-074	365-210-063	NEW	03-07-035
316-45-210	AMD-X	03-08-070	316-55-525	AMD-X	03-08-070	365-210-090	NEW	03-07-035
316-45-210	AMD	03-12-074	316-55-525	AMD	03-12-074	365-210-100	NEW	03-07-035
316-45-230	AMD-X	03-08-070	316-55-600	AMD-X	03-08-070	365-210-110	NEW	03-07-035

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
365-210-120	NEW	03-07-035	388- 14A-6110	NEW-E	03-07-030	388- 32-0025	AMD-E	03-11-024
365-210-130	NEW	03-07-035	388- 14A-6110	NEW-P	03-13-092	388- 32-0025	AMD-P	03-14-100
365-210-140	NEW	03-07-035	388- 14A-6115	NEW-E	03-07-030	388- 32-0030	PREP	03-03-056
365-210-150	NEW	03-07-035	388- 14A-6115	NEW-P	03-13-092	388- 32-0030	AMD-E	03-03-069
365-210-160	NEW	03-07-035	388- 14A-6120	NEW-E	03-07-030	388- 32-0030	AMD-E	03-11-024
365-210-170	NEW	03-07-035	388- 14A-6120	NEW-P	03-13-092	388- 32-0030	AMD-P	03-14-100
365-210-180	NEW	03-07-035	388- 14A-6125	NEW-E	03-07-030	388- 71-0194	AMD-E	03-05-044
365-210-190	NEW	03-07-035	388- 14A-6125	NEW-P	03-13-092	388- 71-0194	AMD-E	03-05-098
365-212-010	NEW	03-07-036	388- 15-650	REP	03-06-024	388- 71-0194	AMD-P	03-09-042
365-212-020	NEW	03-07-036	388- 15-651	REP	03-06-024	388- 71-0194	PREP	03-11-088
365-212-030	NEW	03-07-036	388- 15-652	REP	03-06-024	388- 71-0194	AMD-E	03-13-007
365-212-040	NEW	03-07-036	388- 15-653	REP	03-06-024	388- 71-0194	AMD	03-13-052
365-212-050	NEW	03-07-036	388- 15-654	REP	03-06-024	388- 71-0194	PREP-W	03-14-098
365-212-060	NEW	03-07-036	388- 15-655	REP	03-06-024	388- 71-0194	PREP	03-14-099
365-212-070	NEW	03-07-036	388- 15-656	REP	03-06-024	388- 71-0202	AMD-E	03-05-044
365-212-080	NEW	03-07-036	388- 15-657	REP	03-06-024	388- 71-0202	AMD-E	03-05-098
365-212-090	NEW	03-07-036	388- 15-658	REP	03-06-024	388- 71-0202	AMD-P	03-09-042
374- 80-010	AMD	03-06-015	388- 15-659	REP	03-06-024	388- 71-0202	AMD-E	03-13-007
374- 80-040	AMD	03-06-015	388- 15-660	REP	03-06-024	388- 71-0202	AMD	03-13-052
374- 80-050	AMD	03-06-015	388- 15-661	REP	03-06-024	388- 71-0203	AMD-E	03-05-044
388- 01-030	PREP	03-10-087	388- 15-662	REP	03-06-024	388- 71-0203	AMD-E	03-05-098
388- 01-030	AMD-P	03-14-063	388- 25-0018	NEW-X	03-08-087	388- 71-0203	AMD-P	03-09-042
388- 02-0005	AMD-W	03-06-070	388- 25-0018	NEW	03-14-062	388- 71-0203	AMD-E	03-13-007
388- 02-0215	AMD-E	03-07-043	388- 27-0120	AMD-E	03-11-067	388- 71-0203	AMD	03-13-052
388- 02-0215	AMD-P	03-09-116	388- 27-0120	PREP	03-11-090	388- 71-0405	AMD-E	03-05-044
388- 02-0215	AMD	03-13-046	388- 27-0130	AMD-E	03-11-067	388- 71-0405	AMD-E	03-05-098
388- 14A-3100	AMD-E	03-04-088	388- 27-0130	PREP	03-11-090	388- 71-0405	AMD-P	03-09-042
388- 14A-3100	AMD-E	03-12-064	388- 27-0135	AMD-E	03-11-067	388- 71-0405	AMD-E	03-13-007
388- 14A-3100	AMD-P	03-13-092	388- 27-0135	PREP	03-11-090	388- 71-0405	AMD	03-13-052
388- 14A-3102	AMD-E	03-04-088	388- 27-0155	AMD-E	03-11-067	388- 71-0405	PREP	03-14-099
388- 14A-3102	AMD-E	03-12-064	388- 27-0155	PREP	03-11-090	388- 71-0410	AMD-E	03-05-044
388- 14A-3102	AMD-P	03-13-092	388- 27-0160	AMD-E	03-11-067	388- 71-0410	AMD-E	03-05-098
388- 14A-3110	AMD-E	03-04-088	388- 27-0160	PREP	03-11-090	388- 71-0410	AMD-P	03-09-042
388- 14A-3110	AMD-E	03-12-064	388- 27-0165	AMD-E	03-11-067	388- 71-0410	AMD-E	03-13-007
388- 14A-3110	AMD-P	03-13-092	388- 27-0165	PREP	03-11-090	388- 71-0410	AMD	03-13-052
388- 14A-3115	AMD-E	03-04-088	388- 27-0175	AMD-E	03-11-067	388- 71-0415	AMD-E	03-05-044
388- 14A-3115	AMD-E	03-12-064	388- 27-0175	PREP	03-11-090	388- 71-0415	AMD-E	03-05-098
388- 14A-3115	AMD-P	03-13-092	388- 27-0190	AMD-E	03-11-067	388- 71-0415	AMD-P	03-09-042
388- 14A-3120	AMD-E	03-04-088	388- 27-0190	PREP	03-11-090	388- 71-0415	AMD-E	03-13-007
388- 14A-3120	AMD-E	03-12-064	388- 27-0195	AMD-E	03-11-067	388- 71-0415	AMD	03-13-052
388- 14A-3120	AMD-P	03-13-092	388- 27-0195	PREP	03-11-090	388- 71-0415	PREP	03-14-099
388- 14A-3122	NEW-E	03-04-088	388- 27-0200	AMD-E	03-11-067	388- 71-0420	AMD-E	03-05-044
388- 14A-3122	NEW-E	03-12-064	388- 27-0200	PREP	03-11-090	388- 71-0420	AMD-E	03-05-098
388- 14A-3131	AMD-P	03-13-092	388- 27-0210	AMD-E	03-11-067	388- 71-0420	AMD-P	03-09-042
388- 14A-3132	AMD-P	03-13-092	388- 27-0210	PREP	03-11-090	388- 71-0420	AMD-E	03-13-007
388- 14A-3133	AMD-P	03-13-092	388- 27-0215	AMD-E	03-11-067	388- 71-0420	AMD	03-13-052
388- 14A-3370	AMD-E	03-04-088	388- 27-0215	PREP	03-11-090	388- 71-0425	AMD-E	03-05-044
388- 14A-3370	AMD-E	03-12-064	388- 27-0220	AMD-E	03-11-067	388- 71-0425	AMD-E	03-05-098
388- 14A-3370	AMD-P	03-13-092	388- 27-0220	PREP	03-11-090	388- 71-0425	AMD-P	03-09-042
388- 14A-3600	AMD-P	03-13-092	388- 27-0225	REP-E	03-11-067	388- 71-0425	AMD-E	03-13-007
388- 14A-3810	AMD-E	03-04-088	388- 27-0225	PREP	03-11-090	388- 71-0425	AMD	03-13-052
388- 14A-3810	AMD-E	03-12-064	388- 27-0230	AMD-E	03-11-067	388- 71-0430	AMD-E	03-05-044
388- 14A-3810	AMD-P	03-13-092	388- 27-0235	REP-E	03-11-067	388- 71-0430	AMD-E	03-05-098
388- 14A-4500	PREP	03-09-090	388- 27-0235	PREP	03-11-090	388- 71-0430	AMD-P	03-09-042
388- 14A-4505	PREP	03-09-090	388- 27-0240	REP-E	03-11-067	388- 71-0430	AMD-E	03-13-007
388- 14A-4510	PREP	03-09-090	388- 27-0240	PREP	03-11-090	388- 71-0430	AMD	03-13-052
388- 14A-4515	PREP	03-09-090	388- 27-0245	REP-E	03-11-067	388- 71-0435	AMD-E	03-05-044
388- 14A-4520	PREP	03-09-090	388- 27-0245	PREP	03-11-090	388- 71-0435	AMD-E	03-05-098
388- 14A-4525	PREP	03-09-090	388- 27-0270	REP-E	03-11-067	388- 71-0435	AMD-P	03-09-042
388- 14A-4530	PREP	03-09-090	388- 27-0270	PREP	03-11-090	388- 71-0435	AMD-E	03-13-007
388- 14A-6105	NEW-E	03-07-030	388- 32-0025	PREP	03-03-056	388- 71-0435	AMD	03-13-052
388- 14A-6105	NEW-P	03-13-092	388- 32-0025	AMD-E	03-03-069	388- 71-0440	PREP	03-14-099

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388- 71-0442	NEW-E	03-05-044	388- 71-0730	NEW	03-06-024	388- 72A-0100	NEW	03-05-097
388- 71-0442	NEW-E	03-05-098	388- 71-0732	NEW	03-06-024	388- 72A-0105	NEW	03-05-097
388- 71-0442	NEW-P	03-09-042	388- 71-0734	NEW	03-06-024	388- 72A-0110	NEW	03-05-097
388- 71-0442	NEW-E	03-13-007	388- 71-0736	NEW	03-06-024	388- 76-655	AMD-P	03-10-090
388- 71-0442	NEW	03-13-052	388- 71-0738	NEW	03-06-024	388- 76-655	AMD	03-14-018
388- 71-0445	AMD-E	03-05-044	388- 71-0740	NEW	03-06-024	388- 76-675	PREP	03-12-055
388- 71-0445	AMD-E	03-05-098	388- 71-0742	NEW	03-06-024	388- 78A	REP-P	03-03-018
388- 71-0445	AMD-P	03-09-042	388- 71-0744	NEW	03-06-024	388- 78A	AMD-C	03-07-088
388- 71-0445	AMD-E	03-13-007	388- 71-0746	NEW	03-06-024	388- 78A-0010	NEW-P	03-03-018
388- 71-0445	AMD	03-13-052	388- 71-0748	NEW	03-06-024	388- 78A-0020	NEW-P	03-03-018
388- 71-0460	AMD-E	03-05-044	388- 71-0750	NEW	03-06-024	388- 78A-0030	NEW-P	03-03-018
388- 71-0460	AMD-E	03-05-098	388- 71-0752	NEW	03-06-024	388- 78A-0040	NEW-P	03-03-018
388- 71-0460	AMD-P	03-09-042	388- 71-0754	NEW	03-06-024	388- 78A-0050	NEW-P	03-03-018
388- 71-0460	AMD-W	03-11-025	388- 71-0756	NEW	03-06-024	388- 78A-0060	NEW-P	03-03-018
388- 71-0460	AMD-P	03-11-066	388- 71-0758	NEW	03-06-024	388- 78A-0070	NEW-P	03-03-018
388- 71-0465	AMD-E	03-05-044	388- 71-0760	NEW	03-06-024	388- 78A-0080	NEW-P	03-03-018
388- 71-0465	AMD-E	03-05-098	388- 71-0762	NEW	03-06-024	388- 78A-0090	NEW-P	03-03-018
388- 71-0465	AMD-P	03-09-042	388- 71-0764	NEW	03-06-024	388- 78A-010	REP-P	03-03-018
388- 71-0465	AMD-E	03-13-007	388- 71-0766	NEW	03-06-024	388- 78A-0100	NEW-P	03-03-018
388- 71-0465	AMD	03-13-052	388- 71-0768	NEW	03-06-024	388- 78A-0110	NEW-P	03-03-018
388- 71-0470	AMD-E	03-05-044	388- 71-0770	NEW	03-06-024	388- 78A-0120	NEW-P	03-03-018
388- 71-0470	AMD-E	03-05-098	388- 71-0772	NEW	03-06-024	388- 78A-0130	NEW-P	03-03-018
388- 71-0470	AMD-P	03-09-042	388- 71-0774	NEW	03-06-024	388- 78A-0140	NEW-P	03-03-018
388- 71-0470	AMD-E	03-13-007	388- 71-0776	NEW	03-06-024	388- 78A-0150	NEW-P	03-03-018
388- 71-0470	AMD	03-13-052	388- 71-0800	AMD-P	03-09-091	388- 78A-0160	NEW-P	03-03-018
388- 71-0475	REP-P	03-06-093	388- 71-0800	AMD	03-13-091	388- 78A-0170	NEW-P	03-03-018
388- 71-0475	REP	03-09-092	388- 71-0805	AMD-P	03-09-091	388- 78A-0180	NEW-P	03-03-018
388- 71-0480	AMD-E	03-05-044	388- 71-0805	AMD	03-13-091	388- 78A-0190	NEW-P	03-03-018
388- 71-0480	AMD-E	03-05-098	388- 71-0810	AMD-P	03-09-091	388- 78A-020	REP-P	03-03-018
388- 71-0480	AMD-P	03-09-042	388- 71-0810	AMD	03-13-091	388- 78A-0200	NEW-P	03-03-018
388- 71-0480	AMD-E	03-13-007	388- 71-0815	AMD-P	03-09-091	388- 78A-0210	NEW-P	03-03-018
388- 71-0480	AMD	03-13-052	388- 71-0815	AMD	03-13-091	388- 78A-0220	NEW-P	03-03-018
388- 71-05923	PREP	03-09-089	388- 71-0820	AMD-P	03-09-091	388- 78A-0230	NEW-P	03-03-018
388- 71-0600	AMD-E	03-05-044	388- 71-0820	AMD	03-13-091	388- 78A-0240	NEW-P	03-03-018
388- 71-0600	AMD-E	03-05-098	388- 71-0825	AMD-P	03-09-091	388- 78A-0250	NEW-P	03-03-018
388- 71-0600	AMD-P	03-09-042	388- 71-0825	AMD	03-13-091	388- 78A-0260	NEW-P	03-03-018
388- 71-0600	AMD-E	03-13-007	388- 71-0835	AMD-P	03-09-091	388- 78A-0270	NEW-P	03-03-018
388- 71-0600	AMD	03-13-052	388- 71-0835	AMD	03-13-091	388- 78A-0280	NEW-P	03-03-018
388- 71-0605	AMD-E	03-05-044	388- 71-0840	AMD-P	03-09-091	388- 78A-0290	NEW-P	03-03-018
388- 71-0605	AMD-E	03-05-098	388- 71-0840	AMD	03-13-091	388- 78A-030	REP-P	03-03-018
388- 71-0605	AMD-P	03-09-042	388- 71-0845	AMD-P	03-09-091	388- 78A-0300	NEW-P	03-03-018
388- 71-0605	AMD-E	03-13-007	388- 71-0845	AMD	03-13-091	388- 78A-0310	NEW-P	03-03-018
388- 71-0605	AMD	03-13-052	388- 72A-0005	NEW	03-05-097	388- 78A-0320	NEW-P	03-03-018
388- 71-0610	AMD-E	03-05-044	388- 72A-0010	NEW	03-05-097	388- 78A-0330	NEW-P	03-03-018
388- 71-0610	AMD-E	03-05-098	388- 72A-0015	NEW	03-05-097	388- 78A-0340	NEW-P	03-03-018
388- 71-0610	AMD-P	03-09-042	388- 72A-0020	NEW	03-05-097	388- 78A-0350	NEW-P	03-03-018
388- 71-0610	AMD-E	03-13-007	388- 72A-0025	NEW	03-05-097	388- 78A-0360	NEW-P	03-03-018
388- 71-0610	AMD	03-13-052	388- 72A-0030	NEW	03-05-097	388- 78A-0370	NEW-P	03-03-018
388- 71-0702	NEW	03-06-024	388- 72A-0035	NEW	03-05-097	388- 78A-0380	NEW-P	03-03-018
388- 71-0704	NEW	03-06-024	388- 72A-0040	NEW	03-05-097	388- 78A-0390	NEW-P	03-03-018
388- 71-0706	NEW	03-06-024	388- 72A-0045	NEW	03-05-097	388- 78A-040	REP-P	03-03-018
388- 71-0708	NEW	03-06-024	388- 72A-0050	NEW	03-05-097	388- 78A-0400	NEW-P	03-03-018
388- 71-0710	NEW	03-06-024	388- 72A-0055	NEW	03-05-097	388- 78A-0410	NEW-P	03-03-018
388- 71-0712	NEW	03-06-024	388- 72A-0060	NEW	03-05-097	388- 78A-0420	NEW-P	03-03-018
388- 71-0714	NEW	03-06-024	388- 72A-0060	PREP	03-14-099	388- 78A-0430	NEW-P	03-03-018
388- 71-0716	NEW	03-06-024	388- 72A-0065	NEW	03-05-097	388- 78A-0440	NEW-P	03-03-018
388- 71-0718	NEW	03-06-024	388- 72A-0070	NEW	03-05-097	388- 78A-045	REP-P	03-03-018
388- 71-0720	NEW	03-06-024	388- 72A-0075	NEW	03-05-097	388- 78A-0450	NEW-P	03-03-018
388- 71-0722	NEW	03-06-024	388- 72A-0080	NEW	03-05-097	388- 78A-0460	NEW-P	03-03-018
388- 71-0724	NEW	03-06-024	388- 72A-0085	NEW	03-05-097	388- 78A-0470	NEW-P	03-03-018
388- 71-0726	NEW	03-06-024	388- 72A-0090	NEW	03-05-097	388- 78A-0480	NEW-P	03-03-018
388- 71-0728	NEW	03-06-024	388- 72A-0095	NEW	03-05-097	388- 78A-0490	NEW-P	03-03-018

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-78A-050	REP-P	03-03-018	388-78A-1030	NEW-P	03-03-018	388-140-0020	NEW-E	03-12-004
388-78A-0500	NEW-P	03-03-018	388-78A-1040	NEW-P	03-03-018	388-140-0025	NEW-E	03-04-035
388-78A-0510	NEW-P	03-03-018	388-78A-1050	NEW-P	03-03-018	388-140-0025	NEW-E	03-12-004
388-78A-0520	NEW-P	03-03-018	388-78A-1060	NEW-P	03-03-018	388-140-0030	NEW-E	03-04-035
388-78A-0530	NEW-P	03-03-018	388-78A-1070	NEW-P	03-03-018	388-140-0030	NEW-E	03-12-004
388-78A-0540	NEW-P	03-03-018	388-78A-1080	NEW-P	03-03-018	388-140-0035	NEW-E	03-04-035
388-78A-055	REP-P	03-03-018	388-78A-1090	NEW-P	03-03-018	388-140-0035	NEW-E	03-12-004
388-78A-0550	NEW-P	03-03-018	388-78A-110	REP-P	03-03-018	388-140-0040	NEW-E	03-04-035
388-78A-0560	NEW-P	03-03-018	388-78A-1100	NEW-P	03-03-018	388-140-0040	NEW-E	03-12-004
388-78A-0570	NEW-P	03-03-018	388-78A-1110	NEW-P	03-03-018	388-140-0045	NEW-E	03-04-035
388-78A-0580	NEW-P	03-03-018	388-78A-1120	NEW-P	03-03-018	388-140-0045	NEW-E	03-12-004
388-78A-0590	NEW-P	03-03-018	388-78A-1130	NEW-P	03-03-018	388-140-0050	NEW-E	03-04-035
388-78A-060	REP-P	03-03-018	388-78A-1140	NEW-P	03-03-018	388-140-0050	NEW-E	03-12-004
388-78A-0600	NEW-P	03-03-018	388-78A-1150	NEW-P	03-03-018	388-140-0055	NEW-E	03-04-035
388-78A-0605	NEW-P	03-03-018	388-78A-1160	NEW-P	03-03-018	388-140-0055	NEW-E	03-12-004
388-78A-0610	NEW-P	03-03-018	388-78A-1170	NEW-P	03-03-018	388-140-0060	NEW-E	03-04-035
388-78A-0620	NEW-P	03-03-018	388-78A-1180	NEW-P	03-03-018	388-140-0060	NEW-E	03-12-004
388-78A-0630	NEW-P	03-03-018	388-78A-1190	NEW-P	03-03-018	388-140-0065	NEW-E	03-04-035
388-78A-0635	NEW-P	03-03-018	388-78A-120	REP-P	03-03-018	388-140-0065	NEW-E	03-12-004
388-78A-0640	NEW-P	03-03-018	388-78A-1200	NEW-P	03-03-018	388-140-0070	NEW-E	03-04-035
388-78A-0650	NEW-P	03-03-018	388-78A-1210	NEW-P	03-03-018	388-140-0070	NEW-E	03-12-004
388-78A-0660	NEW-P	03-03-018	388-78A-1220	NEW-P	03-03-018	388-140-0075	NEW-E	03-04-035
388-78A-0670	NEW-P	03-03-018	388-78A-1230	NEW-P	03-03-018	388-140-0075	NEW-E	03-12-004
388-78A-0680	NEW-P	03-03-018	388-78A-130	REP-P	03-03-018	388-140-0080	NEW-E	03-04-035
388-78A-0690	NEW-P	03-03-018	388-78A-140	REP-P	03-03-018	388-140-0080	NEW-E	03-12-004
388-78A-070	REP-P	03-03-018	388-78A-150	REP-P	03-03-018	388-140-0085	NEW-E	03-04-035
388-78A-0700	NEW-P	03-03-018	388-78A-160	REP-P	03-03-018	388-140-0085	NEW-E	03-12-004
388-78A-0710	NEW-P	03-03-018	388-78A-170	REP-P	03-03-018	388-140-0090	NEW-E	03-04-035
388-78A-0720	NEW-P	03-03-018	388-78A-180	REP-P	03-03-018	388-140-0090	NEW-E	03-12-004
388-78A-0730	NEW-P	03-03-018	388-78A-190	REP-P	03-03-018	388-140-0095	NEW-E	03-04-035
388-78A-0740	NEW-P	03-03-018	388-78A-200	REP-P	03-03-018	388-140-0095	NEW-E	03-12-004
388-78A-0750	NEW-P	03-03-018	388-78A-210	REP-P	03-03-018	388-140-0100	NEW-E	03-04-035
388-78A-0760	NEW-P	03-03-018	388-78A-220	REP-P	03-03-018	388-140-0100	NEW-E	03-12-004
388-78A-0770	NEW-P	03-03-018	388-78A-230	REP-P	03-03-018	388-140-0105	NEW-E	03-04-035
388-78A-0780	NEW-P	03-03-018	388-78A-240	REP-P	03-03-018	388-140-0105	NEW-E	03-12-004
388-78A-0790	NEW-P	03-03-018	388-78A-250	REP-P	03-03-018	388-140-0110	NEW-E	03-04-035
388-78A-080	REP-P	03-03-018	388-78A-260	REP-P	03-03-018	388-140-0110	NEW-E	03-12-004
388-78A-0800	NEW-P	03-03-018	388-78A-265	REP-P	03-03-018	388-140-0115	NEW-E	03-04-035
388-78A-0810	NEW-P	03-03-018	388-78A-268	REP-P	03-03-018	388-140-0115	NEW-E	03-12-004
388-78A-0820	NEW-P	03-03-018	388-78A-280	REP-P	03-03-018	388-140-0120	NEW-E	03-04-035
388-78A-0830	NEW-P	03-03-018	388-78A-290	REP-P	03-03-018	388-140-0120	NEW-E	03-12-004
388-78A-0840	NEW-P	03-03-018	388-78A-300	REP-P	03-03-018	388-140-0125	NEW-E	03-04-035
388-78A-0850	NEW-P	03-03-018	388-78A-310	REP-P	03-03-018	388-140-0125	NEW-E	03-12-004
388-78A-0860	NEW-P	03-03-018	388-78A-320	REP-P	03-03-018	388-140-0130	NEW-E	03-04-035
388-78A-0870	NEW-P	03-03-018	388-78A-330	REP-P	03-03-018	388-140-0130	NEW-E	03-12-004
388-78A-0880	NEW-P	03-03-018	388-78A-335	REP-P	03-03-018	388-140-0135	NEW-E	03-04-035
388-78A-0890	NEW-P	03-03-018	388-78A-340	REP-P	03-03-018	388-140-0135	NEW-E	03-12-004
388-78A-090	REP-P	03-03-018	388-78A-990	REP-P	03-03-018	388-140-0140	NEW-E	03-04-035
388-78A-0900	NEW-P	03-03-018	388-79-010	AMD-P	03-06-094	388-140-0140	NEW-E	03-12-004
388-78A-0910	NEW-P	03-03-018	388-79-020	AMD-P	03-06-094	388-140-0145	NEW-E	03-04-035
388-78A-0920	NEW-P	03-03-018	388-79-030	AMD-P	03-06-094	388-140-0145	NEW-E	03-12-004
388-78A-0930	NEW-P	03-03-018	388-79-040	AMD-P	03-06-094	388-140-0150	NEW-E	03-04-035
388-78A-0940	NEW-P	03-03-018	388-79-050	NEW-P	03-06-094	388-140-0150	NEW-E	03-12-004
388-78A-0950	NEW-P	03-03-018	388-96	PREP	03-07-031	388-140-0155	NEW-E	03-04-035
388-78A-0960	NEW-P	03-03-018	388-97-076	PREP	03-12-056	388-140-0155	NEW-E	03-12-004
388-78A-0970	NEW-P	03-03-018	388-140-0005	NEW-E	03-04-035	388-140-0160	NEW-E	03-04-035
388-78A-0980	NEW-P	03-03-018	388-140-0005	NEW-E	03-12-004	388-140-0160	NEW-E	03-12-004
388-78A-0990	NEW-P	03-03-018	388-140-0010	NEW-E	03-04-035	388-140-0165	NEW-E	03-04-035
388-78A-100	REP-P	03-03-018	388-140-0010	NEW-E	03-12-004	388-140-0165	NEW-E	03-12-004
388-78A-1000	NEW-P	03-03-018	388-140-0015	NEW-E	03-04-035	388-140-0170	NEW-E	03-04-035
388-78A-1010	NEW-P	03-03-018	388-140-0015	NEW-E	03-12-004	388-140-0170	NEW-E	03-12-004
388-78A-1020	NEW-P	03-03-018	388-140-0020	NEW-E	03-04-035	388-140-0175	NEW-E	03-04-035

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-148-0995	AMD-E	03-05-099	388-150-010	REP-P	03-09-005	388-150-240	REP-P	03-09-005
388-148-0995	AMD-E	03-14-012	388-150-010	REP	03-14-110	388-150-240	REP	03-14-110
388-148-1060	AMD-E	03-05-099	388-150-020	REP-P	03-09-005	388-150-250	REP-P	03-09-005
388-148-1060	AMD-E	03-14-012	388-150-020	REP	03-14-110	388-150-250	REP	03-14-110
388-148-1070	AMD-E	03-05-099	388-150-040	REP-P	03-09-005	388-150-260	REP-P	03-09-005
388-148-1070	AMD-E	03-14-012	388-150-040	REP	03-14-110	388-150-260	REP	03-14-110
388-148-1076	NEW-E	03-05-099	388-150-050	REP-P	03-09-005	388-150-270	REP-P	03-09-005
388-148-1076	NEW-E	03-14-012	388-150-050	REP	03-14-110	388-150-270	REP	03-14-110
388-148-1077	NEW-E	03-05-099	388-150-060	REP-P	03-09-005	388-150-280	REP-P	03-09-005
388-148-1077	NEW-E	03-14-012	388-150-060	REP	03-14-110	388-150-280	REP	03-14-110
388-148-1078	NEW-E	03-05-099	388-150-070	REP-P	03-09-005	388-150-290	REP-P	03-09-005
388-148-1078	NEW-E	03-14-012	388-150-070	REP	03-14-110	388-150-290	REP	03-14-110
388-148-1079	NEW-E	03-05-099	388-150-080	REP-P	03-09-005	388-150-295	REP-P	03-09-005
388-148-1079	NEW-E	03-14-012	388-150-080	REP	03-14-110	388-150-295	REP	03-14-110
388-148-1115	AMD-E	03-05-099	388-150-085	REP-P	03-09-005	388-150-310	REP-P	03-09-005
388-148-1115	AMD-E	03-14-012	388-150-085	REP	03-14-110	388-150-310	REP	03-14-110
388-148-1120	AMD-E	03-05-099	388-150-090	REP-P	03-09-005	388-150-320	REP-P	03-09-005
388-148-1120	AMD-E	03-14-012	388-150-090	REP	03-14-110	388-150-320	REP	03-14-110
388-148-1140	NEW-E	03-05-099	388-150-092	REP-P	03-09-005	388-150-330	REP-P	03-09-005
388-148-1140	NEW-E	03-14-012	388-150-092	REP	03-14-110	388-150-330	REP	03-14-110
388-148-1145	NEW-E	03-05-099	388-150-093	REP-P	03-09-005	388-150-340	REP-P	03-09-005
388-148-1145	NEW-E	03-14-012	388-150-093	REP	03-14-110	388-150-340	REP	03-14-110
388-148-1150	NEW-E	03-05-099	388-150-094	REP-P	03-09-005	388-150-350	REP-P	03-09-005
388-148-1150	NEW-E	03-14-012	388-150-094	REP	03-14-110	388-150-350	REP	03-14-110
388-148-1155	NEW-E	03-05-099	388-150-095	REP-P	03-09-005	388-150-360	REP-P	03-09-005
388-148-1155	NEW-E	03-14-012	388-150-095	REP	03-14-110	388-150-360	REP	03-14-110
388-148-1160	NEW-E	03-05-099	388-150-096	REP-P	03-09-005	388-150-370	REP-P	03-09-005
388-148-1160	NEW-E	03-14-012	388-150-096	REP	03-14-110	388-150-370	REP	03-14-110
388-148-1165	NEW-E	03-05-099	388-150-097	REP-P	03-09-005	388-150-380	REP-P	03-09-005
388-148-1165	NEW-E	03-14-012	388-150-097	REP	03-14-110	388-150-380	REP	03-14-110
388-148-1170	NEW-E	03-05-099	388-150-098	REP-P	03-09-005	388-150-390	REP-P	03-09-005
388-148-1170	NEW-E	03-14-012	388-150-098	REP	03-14-110	388-150-390	REP	03-14-110
388-148-1175	NEW-E	03-05-099	388-150-100	REP-P	03-09-005	388-150-400	REP-P	03-09-005
388-148-1175	NEW-E	03-14-012	388-150-100	REP	03-14-110	388-150-400	REP	03-14-110
388-148-1180	NEW-E	03-05-099	388-150-110	REP-P	03-09-005	388-150-410	REP-P	03-09-005
388-148-1180	NEW-E	03-14-012	388-150-110	REP	03-14-110	388-150-410	REP	03-14-110
388-148-1185	NEW-E	03-05-099	388-150-120	REP-P	03-09-005	388-150-420	REP-P	03-09-005
388-148-1185	NEW-E	03-14-012	388-150-120	REP	03-14-110	388-150-420	REP	03-14-110
388-148-1190	NEW-E	03-05-099	388-150-130	REP-P	03-09-005	388-150-430	REP-P	03-09-005
388-148-1190	NEW-E	03-14-012	388-150-130	REP	03-14-110	388-150-430	REP	03-14-110
388-148-1205	NEW-E	03-06-091	388-150-140	REP-P	03-09-005	388-150-440	REP-P	03-09-005
388-148-1210	NEW-E	03-06-091	388-150-140	REP	03-14-110	388-150-440	REP	03-14-110
388-148-1215	NEW-E	03-06-091	388-150-150	REP-P	03-09-005	388-150-450	REP-P	03-09-005
388-148-1220	NEW-E	03-06-091	388-150-150	REP	03-14-110	388-150-450	REP	03-14-110
388-148-1225	NEW-E	03-06-091	388-150-160	REP-P	03-09-005	388-150-460	REP-P	03-09-005
388-148-1230	NEW-E	03-06-091	388-150-160	REP	03-14-110	388-150-460	REP	03-14-110
388-148-1235	NEW-E	03-06-091	388-150-165	REP-P	03-09-005	388-150-470	REP-P	03-09-005
388-148-1240	NEW-E	03-06-091	388-150-165	REP	03-14-110	388-150-470	REP	03-14-110
388-148-1245	NEW-E	03-06-091	388-150-170	REP-P	03-09-005	388-150-480	REP-P	03-09-005
388-148-1250	NEW-E	03-06-091	388-150-170	REP	03-14-110	388-150-480	REP	03-14-110
388-148-1255	NEW-E	03-06-091	388-150-180	REP-P	03-09-005	388-150-490	REP-P	03-09-005
388-148-1260	NEW-E	03-06-091	388-150-180	REP	03-14-110	388-150-490	REP	03-14-110
388-148-1265	NEW-E	03-06-091	388-150-190	REP-P	03-09-005	388-150-500	REP-P	03-09-005
388-148-1270	NEW-E	03-06-091	388-150-190	REP	03-14-110	388-150-500	REP	03-14-110
388-148-1275	NEW-E	03-06-091	388-150-200	REP-P	03-09-005	388-150-990	REP-P	03-09-005
388-148-1280	NEW-E	03-06-091	388-150-200	REP	03-14-110	388-150-990	REP	03-14-110
388-148-1285	NEW-E	03-06-091	388-150-210	REP-P	03-09-005	388-150-991	REP-P	03-09-005
388-148-1290	NEW-E	03-06-091	388-150-210	REP	03-14-110	388-150-991	REP	03-14-110
388-148-1295	NEW-E	03-06-091	388-150-220	REP-P	03-09-005	388-150-992	REP-P	03-09-005
388-148-1300	NEW-E	03-06-091	388-150-220	REP	03-14-110	388-150-992	REP	03-14-110
388-150-005	REP-P	03-09-005	388-150-230	REP-P	03-09-005	388-150-993	REP-P	03-09-005
388-150-005	REP	03-14-110	388-150-230	REP	03-14-110	388-150-993	REP	03-14-110

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-155-070	AMD-P	03-06-092	388-292-0060	NEW	03-14-109	388-295-0080	NEW	03-14-110
388-155-070	AMD	03-09-074	388-292-0065	NEW-P	03-09-033	388-295-0090	NEW-P	03-09-005
388-155-090	AMD-P	03-06-092	388-292-0065	NEW	03-14-109	388-295-0090	NEW	03-14-110
388-155-090	AMD	03-09-074	388-292-0070	NEW-P	03-09-033	388-295-0100	NEW-P	03-09-005
388-165-130	REP-P	03-09-033	388-292-0070	NEW	03-14-109	388-295-0100	NEW	03-14-110
388-165-130	REP	03-14-109	388-292-0075	NEW-P	03-09-033	388-295-0110	NEW-P	03-09-005
388-180-0100	NEW	03-04-013	388-292-0075	NEW	03-14-109	388-295-0110	NEW	03-14-110
388-180-0110	NEW	03-04-013	388-292-0080	NEW-P	03-09-033	388-295-0120	NEW-P	03-09-005
388-180-0120	NEW	03-04-013	388-292-0080	NEW	03-14-109	388-295-0120	NEW	03-14-110
388-180-0130	NEW	03-04-013	388-292-0085	NEW-P	03-09-033	388-295-0130	NEW-P	03-09-005
388-180-0140	NEW	03-04-013	388-292-0085	NEW	03-14-109	388-295-0130	NEW	03-14-110
388-180-0150	NEW	03-04-013	388-292-0090	NEW-P	03-09-033	388-295-0140	NEW-P	03-09-005
388-180-0160	NEW	03-04-013	388-292-0090	NEW	03-14-109	388-295-0140	NEW	03-14-110
388-180-0170	NEW	03-04-013	388-292-0095	NEW-P	03-09-033	388-295-0150	NEW-P	03-09-005
388-180-0180	NEW	03-04-013	388-292-0095	NEW	03-14-109	388-295-0150	NEW	03-14-110
388-180-0190	NEW	03-04-013	388-292-0100	NEW-P	03-09-033	388-295-1010	NEW-P	03-09-005
388-180-0200	NEW	03-04-013	388-292-0100	NEW	03-14-109	388-295-1010	NEW	03-14-110
388-180-0210	NEW	03-04-013	388-292-0102	NEW-P	03-09-033	388-295-1020	NEW-P	03-09-005
388-180-0220	NEW	03-04-013	388-292-0102	NEW	03-14-109	388-295-1020	NEW	03-14-110
388-180-0230	NEW	03-04-013	388-292-0105	NEW-P	03-09-033	388-295-1030	NEW-P	03-09-005
388-273-0025	AMD-E	03-12-057	388-292-0105	NEW	03-14-109	388-295-1030	NEW	03-14-110
388-273-0025	PREP	03-13-044	388-292-0110	NEW-P	03-09-033	388-295-1040	NEW-P	03-09-005
388-273-0030	AMD-E	03-12-057	388-292-0110	NEW	03-14-109	388-295-1040	NEW	03-14-110
388-273-0030	PREP	03-13-044	388-292-0115	NEW-P	03-09-033	388-295-1050	NEW-P	03-09-005
388-273-0035	AMD-E	03-12-057	388-292-0115	NEW	03-14-109	388-295-1050	NEW	03-14-110
388-273-0035	PREP	03-13-044	388-292-0120	NEW-P	03-09-033	388-295-1060	NEW-P	03-09-005
388-290-0075	AMD-E	03-06-045	388-292-0120	NEW	03-14-109	388-295-1060	NEW	03-14-110
388-290-0075	AMD-E	03-14-061	388-292-0125	NEW-P	03-09-033	388-295-1070	NEW-P	03-09-005
388-290-0085	AMD-E	03-06-045	388-292-0125	NEW	03-14-109	388-295-1070	NEW	03-14-110
388-290-0085	AMD-E	03-14-061	388-292-0130	NEW-P	03-09-033	388-295-1080	NEW-P	03-09-005
388-290-0130	AMD-E	03-12-026	388-292-0130	NEW	03-14-109	388-295-1080	NEW	03-14-110
388-290-0190	AMD-E	03-06-045	388-292-0135	NEW-P	03-09-033	388-295-1090	NEW-P	03-09-005
388-290-0190	AMD-E	03-14-061	388-292-0135	NEW	03-14-109	388-295-1090	NEW	03-14-110
388-290-0210	REP-E	03-06-045	388-292-0140	NEW-P	03-09-033	388-295-1100	NEW-P	03-09-005
388-290-0210	REP-E	03-14-061	388-292-0140	NEW	03-14-109	388-295-1100	NEW	03-14-110
388-292-0001	NEW-P	03-09-033	388-292-0145	NEW-P	03-09-033	388-295-1110	NEW-P	03-09-005
388-292-0001	NEW	03-14-109	388-292-0145	NEW	03-14-109	388-295-1110	NEW	03-14-110
388-292-0003	NEW-P	03-09-033	388-292-0150	NEW-P	03-09-033	388-295-1120	NEW-P	03-09-005
388-292-0003	NEW	03-14-109	388-292-0150	NEW	03-14-109	388-295-1120	NEW	03-14-110
388-292-0005	NEW-P	03-09-033	388-292-0155	NEW-P	03-09-033	388-295-2010	NEW-P	03-09-005
388-292-0005	NEW	03-14-109	388-292-0155	NEW	03-14-109	388-295-2010	NEW	03-14-110
388-292-0010	NEW-P	03-09-033	388-292-0160	NEW-P	03-09-033	388-295-2020	NEW-P	03-09-005
388-292-0010	NEW	03-14-109	388-292-0160	NEW	03-14-109	388-295-2020	NEW	03-14-110
388-292-0015	NEW-P	03-09-033	388-295-0001	NEW-P	03-09-005	388-295-2030	NEW-P	03-09-005
388-292-0015	NEW	03-14-109	388-295-0001	NEW	03-14-110	388-295-2030	NEW	03-14-110
388-292-0020	NEW-P	03-09-033	388-295-0010	NEW-P	03-09-005	388-295-2040	NEW-P	03-09-005
388-292-0020	NEW	03-14-109	388-295-0010	NEW	03-14-110	388-295-2040	NEW	03-14-110
388-292-0025	NEW-P	03-09-033	388-295-0020	NEW-P	03-09-005	388-295-2050	NEW-P	03-09-005
388-292-0025	NEW	03-14-109	388-295-0020	NEW	03-14-110	388-295-2050	NEW	03-14-110
388-292-0030	NEW-P	03-09-033	388-295-0030	NEW-P	03-09-005	388-295-2060	NEW-P	03-09-005
388-292-0030	NEW	03-14-109	388-295-0030	NEW	03-14-110	388-295-2060	NEW	03-14-110
388-292-0035	NEW-P	03-09-033	388-295-0040	NEW-P	03-09-005	388-295-2070	NEW-P	03-09-005
388-292-0035	NEW	03-14-109	388-295-0040	NEW	03-14-110	388-295-2070	NEW	03-14-110
388-292-0040	NEW-P	03-09-033	388-295-0050	NEW-P	03-09-005	388-295-2080	NEW-P	03-09-005
388-292-0040	NEW	03-14-109	388-295-0050	NEW	03-14-110	388-295-2080	NEW	03-14-110
388-292-0045	NEW-P	03-09-033	388-295-0055	NEW-P	03-09-005	388-295-2090	NEW-P	03-09-005
388-292-0045	NEW	03-14-109	388-295-0055	NEW	03-14-110	388-295-2090	NEW	03-14-110
388-292-0050	NEW-P	03-09-033	388-295-0060	NEW-P	03-09-005	388-295-2100	NEW-P	03-09-005
388-292-0050	NEW	03-14-109	388-295-0060	NEW	03-14-110	388-295-2100	NEW	03-14-110
388-292-0055	NEW-P	03-09-033	388-295-0070	NEW-P	03-09-005	388-295-2110	NEW-P	03-09-005
388-292-0055	NEW	03-14-109	388-295-0070	NEW	03-14-110	388-295-2110	NEW	03-14-110
388-292-0060	NEW-P	03-09-033	388-295-0080	NEW-P	03-09-005	388-295-2120	NEW-P	03-09-005

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-295-2120	NEW	03-14-110	388-295-4070	NEW	03-14-110	388-295-7020	NEW	03-14-110
388-295-2130	NEW-P	03-09-005	388-295-4080	NEW-P	03-09-005	388-295-7030	NEW-P	03-09-005
388-295-2130	NEW	03-14-110	388-295-4080	NEW	03-14-110	388-295-7030	NEW	03-14-110
388-295-3010	NEW-P	03-09-005	388-295-4090	NEW-P	03-09-005	388-295-7040	NEW-P	03-09-005
388-295-3010	NEW	03-14-110	388-295-4090	NEW	03-14-110	388-295-7040	NEW	03-14-110
388-295-3020	NEW-P	03-09-005	388-295-4100	NEW-P	03-09-005	388-295-7050	NEW-P	03-09-005
388-295-3020	NEW	03-14-110	388-295-4100	NEW	03-14-110	388-295-7050	NEW	03-14-110
388-295-3030	NEW-P	03-09-005	388-295-4110	NEW-P	03-09-005	388-295-7060	NEW-P	03-09-005
388-295-3030	NEW	03-14-110	388-295-4110	NEW	03-14-110	388-295-7060	NEW	03-14-110
388-295-3040	NEW-P	03-09-005	388-295-4120	NEW-P	03-09-005	388-295-7070	NEW-P	03-09-005
388-295-3040	NEW	03-14-110	388-295-4120	NEW	03-14-110	388-295-7070	NEW	03-14-110
388-295-3050	NEW-P	03-09-005	388-295-4130	NEW-P	03-09-005	388-295-7080	NEW-P	03-09-005
388-295-3050	NEW	03-14-110	388-295-4130	NEW	03-14-110	388-295-7080	NEW	03-14-110
388-295-3060	NEW-P	03-09-005	388-295-4140	NEW-P	03-09-005	388-310-0800	AMD-E	03-04-066
388-295-3060	NEW	03-14-110	388-295-4140	NEW	03-14-110	388-310-0800	PREP	03-11-087
388-295-3070	NEW-P	03-09-005	388-295-5010	NEW-P	03-09-005	388-310-0800	AMD-E	03-12-025
388-295-3070	NEW	03-14-110	388-295-5010	NEW	03-14-110	388-310-0800	AMD-E	03-14-105
388-295-3080	NEW-P	03-09-005	388-295-5020	NEW-P	03-09-005	388-310-1800	AMD-E	03-14-105
388-295-3080	NEW	03-14-110	388-295-5020	NEW	03-14-110	388-400-0040	AMD	03-05-028
388-295-3090	NEW-P	03-09-005	388-295-5030	NEW-P	03-09-005	388-400-0045	AMD	03-05-028
388-295-3090	NEW	03-14-110	388-295-5030	NEW	03-14-110	388-406-0015	PREP-W	03-03-112
388-295-3100	NEW-P	03-09-005	388-295-5040	NEW-P	03-09-005	388-408-0005	AMD-P	03-13-090
388-295-3100	NEW	03-14-110	388-295-5040	NEW	03-14-110	388-408-0034	PREP	03-06-056
388-295-3110	NEW-P	03-09-005	388-295-5050	NEW-P	03-09-005	388-408-0035	PREP	03-06-056
388-295-3110	NEW	03-14-110	388-295-5050	NEW	03-14-110	388-408-0040	PREP	03-06-056
388-295-3120	NEW-P	03-09-005	388-295-5060	NEW-P	03-09-005	388-408-0045	PREP	03-06-056
388-295-3120	NEW	03-14-110	388-295-5060	NEW	03-14-110	388-408-0050	PREP	03-06-056
388-295-3130	NEW-P	03-09-005	388-295-5070	NEW-P	03-09-005	388-410-0030	PREP	03-07-040
388-295-3130	NEW	03-14-110	388-295-5070	NEW	03-14-110	388-416-0015	AMD-E	03-14-060
388-295-3140	NEW-P	03-09-005	388-295-5080	NEW-P	03-09-005	388-416-0015	PREP	03-14-077
388-295-3140	NEW	03-14-110	388-295-5080	NEW	03-14-110	388-418	PREP	03-13-035
388-295-3150	NEW-P	03-09-005	388-295-5090	NEW-P	03-09-005	388-418-0005	AMD-E	03-14-060
388-295-3150	NEW	03-14-110	388-295-5090	NEW	03-14-110	388-418-0005	PREP	03-14-077
388-295-3160	NEW-P	03-09-005	388-295-5100	NEW-P	03-09-005	388-418-0025	AMD-E	03-14-060
388-295-3160	NEW	03-14-110	388-295-5100	NEW	03-14-110	388-418-0025	PREP	03-14-077
388-295-3170	NEW-P	03-09-005	388-295-5110	NEW-P	03-09-005	388-424-0005	PREP	03-03-007
388-295-3170	NEW	03-14-110	388-295-5110	NEW	03-14-110	388-424-0010	PREP	03-03-007
388-295-3180	NEW-P	03-09-005	388-295-5120	NEW-P	03-09-005	388-424-0015	PREP	03-03-007
388-295-3180	NEW	03-14-110	388-295-5120	NEW	03-14-110	388-424-0020	AMD	03-05-029
388-295-3190	NEW-P	03-09-005	388-295-5140	NEW-P	03-09-005	388-424-0025	AMD	03-05-029
388-295-3190	NEW	03-14-110	388-295-5140	NEW	03-14-110	388-434-0005	AMD-E	03-14-060
388-295-3200	NEW-P	03-09-005	388-295-5150	NEW-P	03-09-005	388-434-0005	PREP	03-14-077
388-295-3200	NEW	03-14-110	388-295-5150	NEW	03-14-110	388-436-0002	AMD-E	03-04-067
388-295-3210	NEW-P	03-09-005	388-295-5160	NEW-P	03-09-005	388-436-0002	PREP	03-11-089
388-295-3210	NEW	03-14-110	388-295-5160	NEW	03-14-110	388-436-0002	AMD-E	03-12-027
388-295-3220	NEW-P	03-09-005	388-295-5170	NEW-P	03-09-005	388-438	PREP	03-12-054
388-295-3220	NEW	03-14-110	388-295-5170	NEW	03-14-110	388-438-0100	PREP-W	03-14-058
388-295-3230	NEW-P	03-09-005	388-295-6010	NEW-P	03-09-005	388-438-0100	REP-E	03-14-104
388-295-3230	NEW	03-14-110	388-295-6010	NEW	03-14-110	388-438-0110	PREP	03-10-088
388-295-4010	NEW-P	03-09-005	388-295-6020	NEW-P	03-09-005	388-438-0110	AMD-E	03-14-104
388-295-4010	NEW	03-14-110	388-295-6020	NEW	03-14-110	388-444	PREP	03-13-035
388-295-4020	NEW-P	03-09-005	388-295-6030	NEW-P	03-09-005	388-444-0035	AMD	03-05-031
388-295-4020	NEW	03-14-110	388-295-6030	NEW	03-14-110	388-448	PREP	03-13-033
388-295-4030	NEW-P	03-09-005	388-295-6040	NEW-P	03-09-005	388-448-0130	AMD-P	03-08-079
388-295-4030	NEW	03-14-110	388-295-6040	NEW	03-14-110	388-448-0140	AMD-P	03-08-079
388-295-4040	NEW-P	03-09-005	388-295-6050	NEW-P	03-09-005	388-450	PREP	03-13-035
388-295-4040	NEW	03-14-110	388-295-6050	NEW	03-14-110	388-450-0020	PREP	03-08-083
388-295-4050	NEW-P	03-09-005	388-295-6060	NEW-P	03-09-005	388-450-0045	AMD	03-03-071
388-295-4050	NEW	03-14-110	388-295-6060	NEW	03-14-110	388-450-0050	AMD-P	03-03-008
388-295-4060	NEW-P	03-09-005	388-295-7010	NEW-P	03-09-005	388-450-0050	AMD	03-06-095
388-295-4060	NEW	03-14-110	388-295-7010	NEW	03-14-110	388-450-0080	PREP	03-06-057
388-295-4070	NEW-P	03-09-005	388-295-7020	NEW-P	03-09-005	388-450-0080	AMD-P	03-09-073

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-450-0080	AMD	03-13-045	388-513-1350	AMD-E	03-08-064	388-538-095	AMD-P	03-14-064
388-450-0085	AMD-P	03-09-073	388-513-1350	PREP	03-08-082	388-538-100	AMD-P	03-14-065
388-450-0085	AMD	03-13-045	388-513-1364	NEW	03-06-048	388-538-110	AMD-P	03-14-065
388-450-0156	AMD	03-05-030	388-513-1364	AMD-X	03-13-112	388-538-111	NEW-P	03-14-065
388-450-0185	PREP	03-13-034	388-513-1365	AMD-P	03-09-117	388-538-112	NEW-P	03-14-065
388-450-0190	PREP	03-13-034	388-513-1365	AMD	03-14-038	388-538-130	AMD-P	03-14-066
388-450-0195	PREP	03-13-034	388-513-1380	AMD-E	03-08-064	388-538-140	AMD-P	03-14-066
388-452-0005	PREP	03-07-042	388-513-1380	PREP	03-08-082	388-539	PREP	03-08-086
388-460-0005	AMD	03-03-072	388-515	PREP	03-08-086	388-540	PREP	03-08-086
388-468-0005	PREP	03-14-080	388-515-1530	REP	03-08-067	388-540	AMD-P	03-14-103
388-470-0005	AMD	03-05-015	388-515-1540	NEW-E	03-05-044	388-540-001	AMD-P	03-14-103
388-470-0010	REP	03-05-015	388-515-1540	NEW-E	03-05-098	388-540-005	AMD-P	03-14-103
388-470-0012	AMD	03-05-015	388-515-1540	NEW-P	03-09-042	388-540-010	REP-P	03-14-103
388-470-0015	REP	03-05-015	388-515-1540	NEW-E	03-13-007	388-540-015	NEW-P	03-14-103
388-470-0020	REP	03-05-015	388-515-1540	NEW	03-13-052	388-540-020	REP-P	03-14-103
388-470-0025	REP	03-05-015	388-517	PREP	03-08-086	388-540-025	NEW-P	03-14-103
388-470-0030	REP	03-05-015	388-519	PREP	03-08-086	388-540-030	REP-P	03-14-103
388-470-0035	REP	03-05-015	388-519-0120	PREP-W	03-14-058	388-540-035	NEW-P	03-14-103
388-470-0045	AMD	03-05-015	388-523	PREP	03-08-086	388-540-040	REP-P	03-14-103
388-470-0050	REP	03-05-015	388-523-0120	PREP	03-04-085	388-540-045	NEW-P	03-14-103
388-470-0055	AMD	03-05-015	388-523-0120	AMD-P	03-10-089	388-540-050	REP-P	03-14-103
388-470-0065	REP	03-05-015	388-523-0120	AMD	03-14-108	388-540-055	NEW-P	03-14-103
388-474-0012	NEW	03-03-114	388-526	PREP	03-08-086	388-540-060	REP-P	03-14-103
388-475	PREP	03-12-054	388-527	PREP	03-08-086	388-540-065	NEW-P	03-14-103
388-476-0005	PREP	03-04-086	388-529	PREP	03-08-086	388-540-101	NEW-P	03-14-103
388-478-0055	AMD	03-03-114	388-530	PREP	03-08-086	388-540-105	NEW-P	03-14-103
388-478-0060	PREP	03-13-034	388-530-1270	NEW	03-05-043	388-540-110	NEW-P	03-14-103
388-478-0075	PREP	03-06-058	388-530-1300	PREP	03-11-086	388-540-120	NEW-P	03-14-103
388-478-0075	AMD-E	03-08-066	388-530-1850	PREP	03-14-078	388-540-130	NEW-P	03-14-103
388-478-0075	AMD-P	03-12-068	388-531	PREP	03-04-087	388-540-140	NEW-P	03-14-103
388-478-0080	PREP	03-08-085	388-531	PREP	03-08-084	388-540-150	NEW-P	03-14-103
388-478-0085	AMD-E	03-08-065	388-531	PREP	03-08-086	388-540-160	NEW-P	03-14-103
388-478-0085	PREP	03-08-081	388-531-0050	AMD	03-06-049	388-540-170	NEW-P	03-14-103
388-478-0085	PREP-W	03-10-051	388-532	PREP	03-08-086	388-540-180	NEW-P	03-14-103
388-484-0005	AMD	03-06-046	388-532-001	NEW-P	03-12-067	388-540-190	NEW-P	03-14-103
388-492	PREP	03-07-087	388-532-050	AMD-P	03-12-067	388-540-200	NEW-P	03-14-103
388-492-0040	PREP	03-13-034	388-532-100	AMD-P	03-12-067	388-540-210	NEW-P	03-14-103
388-492-0070	PREP	03-13-034	388-532-110	NEW-P	03-12-067	388-542	PREP	03-08-086
388-500	PREP	03-08-086	388-532-120	NEW-P	03-12-067	388-543	PREP	03-08-086
388-500-0005	AMD-W	03-13-095	388-532-130	NEW-P	03-12-067	388-543-1100	AMD-X	03-05-054
388-501	PREP	03-08-086	388-532-140	NEW-P	03-12-067	388-543-1100	AMD	03-12-005
388-502	PREP	03-08-086	388-532-500	NEW-P	03-12-067	388-543-1225	NEW	03-05-051
388-502-0010	PREP	03-03-017	388-532-510	NEW-P	03-12-067	388-544	PREP	03-08-086
388-502-0010	AMD-E	03-03-027	388-532-520	NEW-P	03-12-067	388-544	PREP	03-12-054
388-502-0010	AMD-P	03-10-091	388-532-530	NEW-P	03-12-067	388-545	PREP	03-08-086
388-502-0010	AMD-E	03-10-092	388-532-540	NEW-P	03-12-067	388-546	PREP	03-04-087
388-502-0010	AMD	03-14-106	388-532-550	NEW-P	03-12-067	388-546	PREP	03-08-023
388-503	PREP	03-08-086	388-533	PREP	03-08-086	388-546	PREP	03-08-086
388-503-0505	AMD-E	03-14-104	388-533	PREP	03-11-085	388-550	PREP	03-08-086
388-505	PREP	03-08-086	388-533-1000	AMD-P	03-14-101	388-550	PREP	03-10-050
388-505	PREP	03-14-079	388-534	PREP	03-08-086	388-550-1050	AMD-P	03-14-102
388-505-0110	PREP	03-12-054	388-535	PREP	03-08-086	388-550-1300	PREP	03-10-050
388-505-0210	PREP	03-06-055	388-535	PREP	03-12-054	388-550-1400	PREP	03-10-050
388-505-0210	AMD-P	03-10-048	388-535A	PREP	03-08-086	388-550-1500	PREP	03-10-050
388-505-0210	AMD	03-14-107	388-537	PREP	03-08-086	388-550-2501	AMD	03-06-047
388-506	PREP	03-08-086	388-538	PREP	03-08-086	388-550-2511	AMD	03-06-047
388-510	PREP	03-08-086	388-538	PREP	03-10-086	388-550-2521	AMD	03-06-047
388-510-1005	REP-X	03-10-093	388-538-050	AMD-P	03-14-064	388-550-2531	AMD	03-06-047
388-511	PREP	03-08-086	388-538-060	AMD-P	03-14-064	388-550-2541	AMD	03-06-047
388-512	PREP	03-08-086	388-538-067	AMD-P	03-14-067	388-550-2551	AMD	03-06-047
388-513	PREP	03-08-086	388-538-070	AMD-P	03-14-064	388-550-2561	AMD	03-06-047
388-513-1340	PREP	03-08-083	388-538-080	REP-P	03-14-064	388-550-2800	PREP	03-04-087

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-550-3381	AMD	03-06-047	388-805-005	AMD-E	03-14-076	388-805-740	AMD-E	03-06-059
388-550-3401	REP	03-06-047	388-805-010	AMD-P	03-12-066	388-805-740	AMD-P	03-12-066
388-550-3700	AMD-P	03-09-118	388-805-015	AMD-P	03-12-066	388-805-740	AMD-E	03-14-076
388-550-3700	AMD	03-13-053	388-805-030	AMD-E	03-06-059	388-805-750	AMD-E	03-06-059
388-550-4500	AMD-P	03-06-111	388-805-030	AMD-P	03-12-066	388-805-750	AMD-P	03-12-066
388-550-4500	AMD	03-13-055	388-805-030	AMD-E	03-14-076	388-805-750	AMD-E	03-14-076
388-550-4800	PREP	03-04-087	388-805-035	NEW-E	03-06-059	388-805-800	AMD-P	03-12-066
388-550-4800	PREP	03-13-089	388-805-035	NEW-P	03-12-066	388-805-810	AMD-P	03-12-066
388-550-4900	AMD-P	03-06-111	388-805-035	NEW-E	03-14-076	388-805-820	AMD-P	03-12-066
388-550-4900	AMD	03-13-055	388-805-040	NEW-E	03-06-059	388-805-850	AMD-P	03-12-066
388-550-5000	AMD-P	03-06-111	388-805-040	NEW-P	03-12-066	388-805-900	REP-P	03-12-066
388-550-5000	AMD	03-13-055	388-805-040	NEW-E	03-14-076	388-805-905	REP-P	03-12-066
388-550-5100	AMD-P	03-06-111	388-805-065	AMD-E	03-06-059	388-805-910	REP-P	03-12-066
388-550-5100	AMD	03-13-055	388-805-065	AMD-P	03-12-066	388-805-915	REP-P	03-12-066
388-550-5150	AMD-P	03-06-111	388-805-065	AMD-E	03-14-076	388-805-920	REP-P	03-12-066
388-550-5150	AMD	03-13-055	388-805-075	AMD-P	03-12-066	388-805-925	REP-P	03-12-066
388-550-5200	AMD-P	03-06-111	388-805-085	AMD-P	03-12-066	388-805-930	REP-P	03-12-066
388-550-5200	AMD	03-13-055	388-805-090	AMD-P	03-12-066	388-805-935	REP-P	03-12-066
388-550-5400	AMD-P	03-06-111	388-805-100	AMD-P	03-12-066	388-818-001	REP	03-05-100
388-550-5400	AMD	03-13-055	388-805-120	AMD-P	03-12-066	388-818-0010	NEW	03-05-100
388-550-5450	PREP	03-04-087	388-805-130	AMD-P	03-12-066	388-818-002	REP	03-05-100
388-550-5600	AMD-P	03-06-111	388-805-140	AMD-P	03-12-066	388-818-0020	NEW	03-05-100
388-550-5600	AMD	03-13-055	388-805-145	AMD-E	03-06-059	388-818-003	REP	03-05-100
388-550-6000	PREP	03-04-087	388-805-145	AMD-P	03-12-066	388-818-0030	NEW	03-05-100
388-550-6000	PREP	03-10-050	388-805-145	AMD-E	03-14-076	388-818-0040	NEW	03-05-100
388-550-6100	AMD-P	03-14-102	388-805-150	AMD-P	03-12-066	388-818-005	REP	03-05-100
388-550-6150	AMD-P	03-14-102	388-805-205	AMD-E	03-06-059	388-818-0050	NEW	03-05-100
388-550-6200	AMD-P	03-14-102	388-805-205	AMD-P	03-12-066	388-818-0060	NEW	03-05-100
388-550-6400	AMD-P	03-14-102	388-805-205	AMD-E	03-14-076	388-818-0070	NEW	03-05-100
388-550-6800	NEW-P	03-06-111	388-805-210	AMD-P	03-12-066	388-818-0080	NEW	03-05-100
388-550-6800	NEW	03-13-055	388-805-220	AMD-P	03-12-066	388-818-0090	NEW	03-05-100
388-550-6900	NEW-P	03-06-111	388-805-250	AMD-P	03-12-066	388-818-010	REP	03-05-100
388-550-6900	NEW	03-13-055	388-805-300	AMD-E	03-06-059	388-818-0100	NEW	03-05-100
388-551	PREP	03-08-086	388-805-300	AMD-P	03-12-066	388-818-0110	NEW	03-05-100
388-552	PREP	03-08-086	388-805-300	AMD-E	03-14-076	388-818-0120	NEW	03-05-100
388-555	PREP	03-08-086	388-805-305	AMD-P	03-12-066	388-818-0130	NEW	03-05-100
388-556	PREP	03-08-086	388-805-310	AMD-P	03-12-066	388-818-0140	NEW	03-05-100
388-557-5000	NEW-P	03-09-119	388-805-315	AMD-P	03-12-066	388-818-0150	NEW	03-05-100
388-557-5000	NEW	03-13-054	388-805-320	AMD-P	03-12-066	388-818-0160	NEW	03-05-100
388-557-5050	NEW-P	03-09-119	388-805-325	AMD-P	03-12-066	388-818-0170	NEW	03-05-100
388-557-5050	NEW	03-13-054	388-805-350	AMD-P	03-12-066	388-818-0180	NEW	03-05-100
388-557-5100	NEW-P	03-09-119	388-805-400	AMD-P	03-12-066	388-818-0190	NEW	03-05-100
388-557-5100	NEW	03-13-054	388-805-410	AMD-P	03-12-066	388-818-020	REP	03-05-100
388-557-5150	NEW-P	03-09-119	388-805-500	AMD-P	03-12-066	388-818-0200	NEW	03-05-100
388-557-5150	NEW	03-13-054	388-805-520	AMD-P	03-12-066	388-818-0210	NEW	03-05-100
388-557-5200	NEW-P	03-09-119	388-805-530	AMD-P	03-12-066	388-818-0220	NEW	03-05-100
388-557-5200	NEW	03-13-054	388-805-540	AMD-P	03-12-066	388-818-0230	NEW	03-05-100
388-557-5250	NEW-P	03-09-119	388-805-550	AMD-P	03-12-066	388-818-0240	NEW	03-05-100
388-557-5250	NEW	03-13-054	388-805-600	AMD-P	03-12-066	388-818-0250	NEW	03-05-100
388-557-5300	NEW-P	03-09-119	388-805-610	AMD-P	03-12-066	388-818-0260	NEW	03-05-100
388-557-5300	NEW	03-13-054	388-805-625	NEW-P	03-12-066	388-818-0270	NEW	03-05-100
388-561	PREP	03-08-086	388-805-700	AMD-P	03-12-066	388-818-0280	NEW	03-05-100
388-561-0001	AMD	03-06-048	388-805-710	AMD-E	03-06-059	388-818-0290	NEW	03-05-100
388-561-0100	AMD-P	03-09-117	388-805-710	AMD-P	03-12-066	388-818-030	REP	03-05-100
388-561-0100	AMD	03-13-113	388-805-710	AMD-E	03-14-076	388-818-0300	NEW	03-05-100
388-730-0010	AMD	03-03-070	388-805-715	NEW-P	03-12-066	388-818-0310	NEW	03-05-100
388-730-0060	AMD	03-03-070	388-805-720	AMD-E	03-06-059	388-818-0320	NEW	03-05-100
388-730-0065	AMD	03-03-070	388-805-720	AMD-P	03-12-066	388-818-0330	NEW	03-05-100
388-730-0070	AMD	03-03-070	388-805-720	AMD-E	03-14-076	388-818-0340	NEW	03-05-100
388-730-0090	AMD	03-03-070	388-805-730	AMD-E	03-06-059	388-818-0350	NEW	03-05-100
388-805-005	AMD-E	03-06-059	388-805-730	AMD-P	03-12-066	388-818-0360	NEW	03-05-100
388-805-005	AMD-P	03-12-066	388-805-730	AMD-E	03-14-076	388-818-0370	NEW	03-05-100

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-818-0380	NEW	03-05-100	388-825-570	NEW-E	03-03-115	388-865-0325	PREP	03-08-077
388-818-0390	NEW	03-05-100	388-825-570	NEW-E	03-10-027	388-865-0330	PREP	03-08-077
388-818-040	REP	03-05-100	388-825-571	NEW-E	03-03-115	388-865-0335	PREP	03-08-077
388-818-0400	NEW	03-05-100	388-825-571	NEW-E	03-10-027	388-865-0340	PREP	03-08-077
388-818-050	REP	03-05-100	388-825-575	NEW-E	03-03-115	388-865-0345	PREP	03-08-077
388-818-060	REP	03-05-100	388-825-575	NEW-E	03-10-027	388-865-0350	PREP	03-08-077
388-818-070	REP	03-05-100	388-825-576	NEW-E	03-03-115	388-865-0355	PREP	03-08-077
388-818-080	REP	03-05-100	388-825-576	NEW-E	03-10-027	388-865-0360	PREP	03-08-077
388-818-090	REP	03-05-100	388-825-580	NEW-E	03-03-115	388-865-0363	PREP	03-08-077
388-818-110	REP	03-05-100	388-825-580	NEW-E	03-10-027	388-865-0365	PREP	03-08-077
388-818-130	REP	03-05-100	388-825-585	NEW-E	03-03-115	388-865-0400	PREP	03-08-077
388-820-020	AMD-E	03-03-115	388-825-585	NEW-E	03-10-027	388-865-0405	PREP	03-08-077
388-820-020	AMD-E	03-10-026	388-825-590	NEW-E	03-03-115	388-865-0410	PREP	03-08-077
388-820-060	AMD-E	03-03-115	388-825-590	NEW-E	03-10-027	388-865-0415	PREP	03-08-077
388-820-060	AMD-E	03-10-026	388-825-591	NEW-E	03-03-115	388-865-0420	PREP	03-08-077
388-820-120	AMD-E	03-03-115	388-825-591	NEW-E	03-10-027	388-865-0425	PREP	03-08-077
388-820-120	AMD-E	03-10-026	388-825-592	NEW-E	03-03-115	388-865-0430	PREP	03-08-077
388-825-020	AMD-E	03-03-115	388-825-592	NEW-E	03-10-027	388-865-0435	PREP	03-08-077
388-825-020	AMD-E	03-10-027	388-825-600	NEW-E	03-03-115	388-865-0436	PREP	03-08-077
388-825-055	AMD-E	03-03-115	388-825-600	NEW-E	03-10-027	388-865-0440	PREP	03-08-077
388-825-055	AMD-E	03-10-027	388-850-035	AMD-E	03-03-115	388-865-0445	PREP	03-08-077
388-825-100	AMD-E	03-03-115	388-850-035	AMD-E	03-10-027	388-865-0450	PREP	03-08-077
388-825-100	AMD-E	03-10-027	388-850-035	AMD-E	03-03-115	388-865-0452	PREP	03-08-077
388-825-120	AMD-E	03-03-115	388-850-045	AMD-E	03-10-027	388-865-0454	PREP	03-08-077
388-825-120	AMD-E	03-10-027	388-850-045	AMD-E	03-03-115	388-865-0456	PREP	03-08-077
388-825-180	AMD-E	03-03-115	388-865-0100	PREP	03-08-077	388-865-0458	PREP	03-08-077
388-825-180	AMD-E	03-10-027	388-865-0105	PREP	03-08-077	388-865-0460	PREP	03-08-077
388-825-205	AMD-E	03-03-115	388-865-0110	PREP	03-08-077	388-865-0462	PREP	03-08-077
388-825-205	AMD-E	03-10-027	388-865-0115	PREP	03-08-077	388-865-0464	PREP	03-08-077
388-825-252	AMD-E	03-03-115	388-865-0120	PREP	03-08-077	388-865-0466	PREP	03-08-077
388-825-252	AMD-E	03-10-027	388-865-0150	PREP	03-08-077	388-865-0468	PREP	03-08-077
388-825-254	AMD-E	03-03-115	388-865-0200	PREP	03-08-077	388-865-0470	PREP	03-08-077
388-825-254	AMD-E	03-10-027	388-865-0201	PREP	03-08-077	388-865-0472	PREP	03-08-077
388-825-500	NEW-E	03-03-115	388-865-0203	PREP	03-08-077	388-865-0474	PREP	03-08-077
388-825-500	NEW-E	03-10-027	388-865-0205	PREP	03-08-077	388-865-0476	PREP	03-08-077
388-825-505	NEW-E	03-03-115	388-865-0210	PREP	03-08-077	388-865-0478	PREP	03-08-077
388-825-505	NEW-E	03-10-027	388-865-0215	PREP	03-08-077	388-865-0480	PREP	03-08-077
388-825-510	NEW-E	03-03-115	388-865-0217	NEW-E	03-14-081	388-865-0482	PREP	03-08-077
388-825-510	NEW-E	03-10-027	388-865-0220	PREP	03-08-077	388-865-0484	PREP	03-08-077
388-825-515	NEW-E	03-03-115	388-865-0221	PREP	03-08-077	388-865-0500	PREP	03-07-041
388-825-515	NEW-E	03-10-027	388-865-0222	PREP	03-08-077	388-865-0501	PREP	03-07-041
388-825-520	NEW-E	03-03-115	388-865-0225	PREP	03-08-077	388-865-0502	PREP	03-07-041
388-825-520	NEW-E	03-10-027	388-865-0229	PREP	03-08-077	388-865-0504	PREP	03-07-041
388-825-525	NEW-E	03-03-115	388-865-0230	PREP	03-08-077	388-865-0505	PREP	03-07-041
388-825-525	NEW-E	03-10-027	388-865-0235	PREP	03-08-077	388-865-0510	PREP	03-07-041
388-825-530	NEW-E	03-03-115	388-865-0240	PREP	03-08-077	388-865-0515	PREP	03-07-041
388-825-530	NEW-E	03-10-027	388-865-0245	PREP	03-08-077	388-865-0525	PREP	03-07-041
388-825-535	NEW-E	03-03-115	388-865-0250	PREP	03-08-077	388-865-0530	PREP	03-07-041
388-825-535	NEW-E	03-10-027	388-865-0255	PREP	03-08-077	388-865-0535	PREP	03-07-041
388-825-540	NEW-E	03-03-115	388-865-0260	PREP	03-08-077	388-865-0540	PREP	03-07-041
388-825-540	NEW-E	03-10-027	388-865-0265	PREP	03-08-077	388-865-0545	PREP	03-07-041
388-825-545	NEW-E	03-03-115	388-865-0270	PREP	03-08-077	388-865-0546	PREP	03-07-041
388-825-545	NEW-E	03-10-027	388-865-0275	PREP	03-08-077	388-865-0550	PREP	03-07-041
388-825-546	NEW-E	03-03-115	388-865-0280	PREP	03-08-077	388-865-0555	PREP	03-07-041
388-825-546	NEW-E	03-10-027	388-865-0282	PREP	03-08-077	388-865-0557	PREP	03-07-041
388-825-550	NEW-E	03-03-115	388-865-0284	PREP	03-08-077	388-865-0560	PREP	03-07-041
388-825-550	NEW-E	03-10-027	388-865-0286	PREP	03-08-077	388-865-0565	PREP	03-07-041
388-825-555	NEW-E	03-03-115	388-865-0288	PREP	03-08-077	388-880	PREP	03-08-078
388-825-555	NEW-E	03-10-027	388-865-0300	PREP	03-08-077	388-880	AMD-E	03-12-003
388-825-560	NEW-E	03-03-115	388-865-0305	PREP	03-08-077	388-880-005	AMD-E	03-12-003
388-825-560	NEW-E	03-10-027	388-865-0310	PREP	03-08-077	388-880-007	AMD-E	03-12-003
388-825-565	NEW-E	03-03-115	388-865-0315	PREP	03-08-077	388-880-010	AMD-E	03-12-003
			388-865-0320	PREP	03-08-077			

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-880-020	AMD-E	03-12-003	391- 35-002	AMD	03-03-064	392-142-200	REP-P	03-09-050
388-880-030	AMD-E	03-12-003	391- 35-026	NEW	03-03-064	392-142-200	REP	03-13-049
388-880-031	AMD-E	03-12-003	391- 35-326	NEW	03-03-064	392-142-212	AMD-P	03-09-050
388-880-032	REP-E	03-12-003	391- 35-327	NEW	03-03-064	392-142-212	AMD	03-13-049
388-880-033	NEW-E	03-12-003	391- 35-346	NEW	03-03-064	392-142-213	AMD-P	03-09-050
388-880-034	NEW-E	03-12-003	391- 35-347	NEW	03-03-064	392-142-213	AMD	03-13-049
388-880-035	NEW-E	03-12-003	391- 35-356	NEW	03-03-064	392-142-225	AMD-P	03-09-050
388-880-036	NEW-E	03-12-003	391- 45-001	AMD	03-03-064	392-142-225	AMD	03-13-049
388-880-044	AMD-E	03-12-003	391- 45-002	AMD	03-03-064	392-142-230	REP-P	03-09-050
388-880-045	AMD-E	03-12-003	391- 45-056	NEW	03-03-064	392-142-230	REP	03-13-049
388-880-055	NEW-E	03-12-003	391- 55-001	AMD	03-03-064	392-142-235	REP-P	03-09-050
388-891	PREP-W	03-14-057	391- 55-002	AMD	03-03-064	392-142-235	REP	03-13-049
390	PREP	03-04-095	391- 55-200	AMD	03-03-064	392-142-240	AMD-P	03-09-050
390	PREP	03-13-104	391- 65-001	AMD	03-03-064	392-142-240	AMD	03-13-049
390- 16-245	AMD-P	03-08-051	391- 65-002	AMD	03-03-064	392-142-245	AMD-P	03-09-050
390- 16-245	AMD	03-12-033	391- 65-110	AMD	03-03-064	392-142-245	AMD	03-13-049
390- 17-100	AMD	03-08-052	391- 95-001	AMD	03-03-064	392-142-250	AMD-P	03-09-050
390- 17-110	NEW-S	03-04-094	391- 95-010	AMD	03-03-064	392-142-250	AMD	03-13-049
390- 17-110	NEW	03-08-050	392-121-124	PREP	03-13-009	392-142-255	AMD-P	03-09-050
390- 18-010	AMD-P	03-08-051	392-139	PREP	03-05-093	392-142-255	AMD	03-13-049
390- 18-010	AMD	03-12-034	392-139-008	AMD-P	03-13-103	392-142-260	AMD-P	03-09-050
390- 37-063	AMD-X	03-13-105	392-139-310	AMD-P	03-13-103	392-142-260	AMD	03-13-049
390- 37-134	AMD-X	03-13-105	392-139-345	NEW-P	03-13-103	392-142-270	AMD-P	03-09-050
391- 08-001	AMD	03-03-064	392-139-350	NEW-P	03-13-103	392-142-270	AMD	03-13-049
391- 08-630	AMD	03-03-064	392-140-908	AMD	03-03-001	392-143	PREP	03-03-034
391- 08-670	AMD	03-03-064	392-140-908	AMD-W	03-07-070	415- 02	PREP	03-04-017
391- 08-670	PREP	03-03-066	392-140-912	AMD	03-03-001	415- 02-140	NEW	03-06-043
391- 08-670	AMD-P	03-07-093	392-140-912	AMD-W	03-07-070	415- 02-310	NEW	03-06-044
391- 08-670	AMD	03-11-029	392-140-970	PREP	03-14-039	415- 02-350	NEW	03-06-044
391- 25-001	AMD	03-03-064	392-140-971	PREP	03-14-039	415- 02-370	NEW-E	03-10-007
391- 25-002	AMD	03-03-064	392-140-972	PREP	03-14-039	415- 02-370	NEW-P	03-11-043
391- 25-011	AMD	03-03-064	392-140-973	PREP	03-14-039	415- 02-380	AMD-P	03-05-042
391- 25-011	REP-P	03-07-093	392-140-974	PREP	03-14-039	415- 02-380	AMD	03-12-014
391- 25-011	AMD-E	03-11-028	392-142	PREP	03-03-033	415- 02-380	PREP	03-13-026
391- 25-011	REP	03-11-029	392-142-010	AMD-P	03-09-050	415- 02-500	NEW-P	03-05-042
391- 25-032	NEW	03-03-064	392-142-010	AMD	03-13-049	415- 02-500	NEW	03-12-014
391- 25-036	NEW	03-03-064	392-142-090	REP-P	03-09-050	415- 02-500	PREP	03-13-026
391- 25-037	NEW	03-03-064	392-142-090	REP	03-13-049	415- 02-510	NEW-P	03-05-042
391- 25-051	NEW	03-03-064	392-142-120	REP-P	03-09-050	415- 02-510	NEW	03-12-014
391- 25-076	NEW	03-03-064	392-142-120	REP	03-13-049	415- 02-510	PREP	03-13-026
391- 25-096	NEW	03-03-064	392-142-125	AMD-P	03-09-050	415- 02-520	NEW-P	03-05-042
391- 25-136	NEW	03-03-064	392-142-125	AMD	03-13-049	415- 02-520	NEW	03-12-014
391- 25-137	NEW	03-03-064	392-142-140	REP-P	03-09-050	415- 02-520	PREP	03-13-026
391- 25-197	NEW	03-03-064	392-142-140	REP	03-13-049	415- 02-530	NEW-P	03-05-042
391- 25-210	AMD-P	03-07-093	392-142-145	AMD-P	03-09-050	415- 02-530	NEW	03-12-014
391- 25-210	AMD	03-11-029	392-142-145	AMD	03-13-049	415- 02-530	PREP	03-13-026
391- 25-216	NEW	03-03-064	392-142-150	REP-P	03-09-050	415- 02-540	NEW-P	03-05-042
391- 25-216	PREP	03-03-066	392-142-150	REP	03-13-049	415- 02-540	NEW	03-12-014
391- 25-216	REP-P	03-07-093	392-142-155	AMD-P	03-09-050	415- 02-540	PREP	03-13-026
391- 25-216	REP	03-11-029	392-142-155	AMD	03-13-049	415- 02-550	NEW-P	03-05-042
391- 25-217	NEW	03-03-064	392-142-165	AMD-P	03-09-050	415- 02-550	NEW	03-12-014
391- 25-396	NEW	03-03-064	392-142-165	AMD	03-13-049	415- 02-550	PREP	03-13-026
391- 25-416	NEW	03-03-064	392-142-170	REP-P	03-09-050	415- 02-700	NEW-P	03-13-101
391- 25-426	NEW-E	03-03-065	392-142-170	REP	03-13-049	415- 10	PREP	03-04-017
391- 25-426	PREP	03-03-066	392-142-180	AMD-P	03-09-050	415- 10-020	AMD-E	03-10-007
391- 25-426	NEW-P	03-07-093	392-142-180	AMD	03-13-049	415- 10-020	AMD-P	03-11-043
391- 25-426	NEW-E	03-11-028	392-142-185	AMD-P	03-09-050	415- 10-030	AMD-E	03-10-007
391- 25-426	NEW	03-11-029	392-142-185	AMD	03-13-049	415- 10-030	AMD-P	03-11-043
391- 25-427	NEW	03-03-064	392-142-190	AMD-P	03-09-050	415- 10-040	AMD-E	03-10-007
391- 25-476	NEW	03-03-064	392-142-190	AMD	03-13-049	415- 10-040	AMD-P	03-11-043
391- 25-496	NEW	03-03-064	392-142-195	AMD-P	03-09-050	415-103	PREP	03-07-063
391- 35-001	AMD	03-03-064	392-142-195	AMD	03-13-049	415-104	PREP	03-07-063

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
415-104-202	NEW-P	03-05-042	458- 12-075	PREP	03-03-100	458- 20-24003	PREP	03-03-101
415-104-202	NEW	03-12-014	458- 12-080	PREP	03-03-100	458- 20-24003	NEW-P	03-08-069
415-104-202	PREP	03-13-026	458- 12-360	PREP	03-03-100	458- 20-24003	NEW	03-12-053
415-104-211	AMD-P	03-05-042	458- 12-360	AMD-P	03-09-098	458- 20-251	AMD-P	03-13-022
415-104-211	AMD	03-12-014	458- 16-010	REP-P	03-03-099	458- 40-660	PREP	03-05-084
415-104-211	PREP	03-13-026	458- 16-010	REP	03-09-002	458- 40-660	AMD-P	03-10-079
415-104-215	AMD-P	03-05-042	458- 16-011	REP-P	03-03-099	458- 40-660	AMD	03-14-072
415-104-215	AMD	03-12-014	458- 16-011	REP	03-09-002	458- 40-680	PREP	03-09-100
415-104-215	PREP	03-13-026	458- 16-012	REP-P	03-03-099	458- 61-100	PREP	03-07-065
415-104-299	AMD	03-06-042	458- 16-012	REP	03-09-002	458- 61-100	AMD-P	03-11-079
415-104-3402	AMD	03-06-042	458- 16-013	REP-P	03-03-099	468- 06-040	AMD-X	03-04-062
415-104-385	AMD	03-06-042	458- 16-013	REP	03-09-002	468- 06-040	AMD	03-09-103
415-108	PREP	03-07-063	458- 16-020	REP-P	03-03-099	468- 15-010	NEW	03-03-012
415-108-425	AMD-P	03-11-044	458- 16-020	REP	03-09-002	468- 15-020	NEW	03-03-012
415-108-443	AMD	03-06-042	458- 16-022	REP-P	03-03-099	468- 15-030	NEW	03-03-012
415-108-475	AMD	03-06-042	458- 16-022	REP	03-09-002	468- 15-040	NEW	03-03-012
415-108-550	AMD-P	03-05-041	458- 16-022	REP	03-09-002	468- 15-040	NEW	03-03-012
415-108-550	AMD	03-08-090	458- 16-030	REP-P	03-03-099	468- 15-050	NEW	03-03-012
415-108-560	AMD-P	03-05-041	458- 16-030	REP	03-09-002	468- 15-060	NEW	03-03-012
415-108-560	AMD	03-08-090	458- 16-040	REP-P	03-03-099	468- 38-110	PREP	03-14-027
415-108-575	NEW-P	03-05-041	458- 16-040	REP	03-09-002	468- 38-265	PREP	03-11-075
415-108-575	NEW	03-08-090	458- 16-060	REP-P	03-03-099	468- 38-265	AMD-E	03-14-026
415-110-443	AMD	03-06-042	458- 16-060	REP	03-09-002	468- 38-340	AMD	03-03-035
415-110-475	AMD	03-06-042	458- 16-070	REP-P	03-03-099	468- 58-080	AMD-E	03-04-040
415-110-575	NEW-P	03-05-041	458- 16-070	REP	03-09-002	468- 58-080	AMD-E	03-08-008
415-110-575	NEW	03-08-090	458- 16-079	REP-P	03-03-099	468- 58-080	AMD-P	03-08-061
415-111-450	REP-P	03-05-042	458- 16-079	REP	03-09-002	468- 58-080	AMD	03-11-076
415-111-450	REP	03-12-014	458- 16A	AMD-P	03-03-099	468- 70	PREP	03-13-040
415-112-445	AMD	03-06-042	458- 16A	AMD	03-09-002	468- 70-050	AMD-E	03-11-071
415-112-480	AMD	03-06-042	458- 16A-100	NEW-P	03-03-099	468- 70-070	AMD-E	03-06-052
434-208-010	PREP	03-07-086	458- 16A-100	NEW	03-09-002	468- 70-070	AMD-E	03-14-051
434-208-100	NEW-P	03-10-055	458- 16A-110	NEW-P	03-03-099	468- 70-080	REP-E	03-06-052
434-240-010	AMD-P	03-10-055	458- 16A-110	NEW	03-09-002	468- 70-080	REP-E	03-14-051
434-262-010	PREP	03-07-086	458- 16A-115	NEW-P	03-03-099	468- 95-010	AMD-E	03-03-028
434-262-010	AMD-P	03-10-055	458- 16A-115	NEW	03-09-002	468- 95-010	AMD-P	03-03-029
434-262-020	PREP	03-07-086	458- 16A-120	NEW-P	03-03-099	468- 95-010	AMD	03-06-053
434-262-020	AMD-P	03-10-055	458- 16A-120	NEW	03-09-002	468- 95-020	REP-E	03-03-028
434-670-010	NEW	03-06-069	458- 16A-130	NEW-P	03-03-099	468- 95-020	REP-P	03-03-029
434-670-020	NEW	03-06-069	458- 16A-130	NEW	03-09-002	468- 95-020	REP	03-06-053
434-670-030	NEW	03-06-069	458- 16A-135	NEW-P	03-03-099	468- 95-020	REP	03-06-053
434-670-040	NEW	03-06-069	458- 16A-135	NEW	03-09-002	468- 95-025	REP-E	03-03-028
434-670-050	NEW	03-06-069	458- 16A-140	NEW-P	03-03-099	468- 95-025	REP-P	03-03-029
434-670-060	NEW	03-06-069	458- 16A-140	NEW	03-09-002	468- 95-025	REP	03-06-053
434-670-070	NEW	03-06-069	458- 16A-150	NEW-P	03-03-099	468- 95-030	REP-E	03-03-028
434-670-080	NEW	03-06-069	458- 16A-150	NEW	03-09-002	468- 95-030	REP-P	03-03-029
434-670-090	NEW	03-06-069	458- 16A-150	AMD-X	03-11-095	468- 95-030	REP	03-06-053
446- 20-285	AMD	03-05-007	458- 17-101	NEW-P	03-09-147	468- 95-035	REP-E	03-03-028
446- 75-010	AMD-P	03-04-070	458- 17-105	REP-P	03-09-147	468- 95-035	REP-P	03-03-029
446- 75-010	AMD	03-08-053	458- 17-110	REP-P	03-09-147	468- 95-035	REP	03-06-053
446- 75-020	AMD-P	03-04-070	458- 17-115	REP-P	03-09-147	468- 95-037	REP-E	03-03-028
446- 75-020	AMD	03-08-053	458- 17-120	REP-P	03-09-147	468- 95-037	REP-P	03-03-029
446- 75-030	AMD-P	03-04-070	458- 20-122	REP-P	03-09-146	468- 95-037	REP	03-06-053
446- 75-030	AMD	03-08-053	458- 20-135	AMD-P	03-04-032	468- 95-040	REP-E	03-03-028
446- 75-060	AMD-P	03-04-070	458- 20-177	PREP	03-11-048	468- 95-040	REP-P	03-03-029
446- 75-060	AMD	03-08-053	458- 20-17803	NEW-E	03-04-031	468- 95-040	REP	03-06-053
446- 75-070	AMD-P	03-04-070	458- 20-185	AMD-E	03-06-016	468- 95-050	REP-E	03-03-028
446- 75-070	AMD	03-08-053	458- 20-185	AMD-S	03-08-042	468- 95-050	REP-P	03-03-029
446- 75-080	AMD-P	03-04-070	458- 20-185	AMD	03-12-058	468- 95-055	REP	03-06-053
446- 75-080	AMD	03-08-053	458- 20-208	AMD	03-07-066	468- 95-055	REP-E	03-03-028
446- 75-080	AMD	03-08-053	458- 20-209	AMD-P	03-09-146	468- 95-055	REP-P	03-03-029
458- 12-060	PREP	03-03-100	458- 20-210	AMD-P	03-09-146	468- 95-060	REP	03-06-053
458- 12-065	PREP	03-03-100	458- 20-231	REP-X	03-04-030	468- 95-060	REP-E	03-03-028
458- 12-070	PREP	03-03-100	458- 20-231	REP	03-09-062	468- 95-060	REP-P	03-03-029
						468- 95-060	REP	03-06-053

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
468-95-070	REP-E	03-03-028	468-95-270	NEW	03-06-053	478-324-140	AMD-X	03-05-019
468-95-070	REP-P	03-03-029	468-95-280	NEW-E	03-03-028	478-324-140	AMD	03-12-007
468-95-070	REP	03-06-053	468-95-280	NEW-P	03-03-029	478-324-145	NEW-X	03-05-019
468-95-080	REP-E	03-03-028	468-95-280	NEW	03-06-053	478-324-145	NEW	03-12-007
468-95-080	REP-P	03-03-029	468-95-290	NEW-E	03-03-028	478-324-180	AMD-X	03-05-019
468-95-080	REP	03-06-053	468-95-290	NEW-P	03-03-029	478-324-180	AMD	03-12-007
468-95-090	REP-E	03-03-028	468-95-290	NEW	03-06-053	479-01-010	AMD-P	03-12-009
468-95-090	REP-P	03-03-029	468-95-300	NEW-E	03-03-028	479-01-050	AMD-P	03-12-009
468-95-090	REP	03-06-053	468-95-300	NEW-P	03-03-029	479-05-010	AMD-P	03-12-009
468-95-100	REP-E	03-03-028	468-95-300	NEW	03-06-053	479-05-050	AMD-P	03-12-009
468-95-100	REP-P	03-03-029	468-95-310	NEW-E	03-03-028	479-05-240	AMD-P	03-12-009
468-95-100	REP	03-06-053	468-95-310	NEW-P	03-03-029	479-12-260	REP-P	03-12-009
468-95-110	NEW-E	03-03-028	468-95-310	NEW	03-06-053	479-12-430	AMD-P	03-12-009
468-95-110	NEW-P	03-03-029	468-95-320	NEW-E	03-03-028	480-90-238	PREP	03-09-069
468-95-110	NEW	03-06-053	468-95-320	NEW-P	03-03-029	480-100-238	PREP	03-09-068
468-95-120	NEW-E	03-03-028	468-95-320	NEW	03-06-053	480-107	PREP	03-09-070
468-95-120	NEW-P	03-03-029	468-95-330	NEW-E	03-03-028	480-120-017	NEW	03-03-090
468-95-120	NEW	03-06-053	468-95-330	NEW-P	03-03-029	480-120-019	NEW	03-03-090
468-95-130	NEW-E	03-03-028	468-95-330	NEW	03-06-053	480-120-173	NEW	03-03-090
468-95-130	NEW-P	03-03-029	468-95-340	NEW-E	03-03-028	495A-121-011	PREP	03-09-041
468-95-130	NEW	03-06-053	468-95-340	NEW-P	03-03-029	495A-121-041	PREP	03-09-041
468-95-140	NEW-E	03-03-028	468-95-340	NEW	03-06-053	495A-121-044	PREP	03-09-041
468-95-140	NEW-P	03-03-029	468-95-340	NEW-E	03-03-028	495D-135-040	PREP	03-07-085
468-95-140	NEW	03-06-053	468-95-350	NEW-P	03-03-029	495D-135-040	AMD-P	03-10-063
468-95-150	NEW-E	03-03-028	468-95-350	NEW	03-06-053	495D-135-040	AMD	03-13-080
468-95-150	NEW-P	03-03-029	468-95-360	NEW-E	03-03-028	504-14-810	AMD-P	03-10-057
468-95-150	NEW	03-06-053	468-95-360	NEW-P	03-03-029	504-14-830	AMD-P	03-10-057
468-95-160	NEW-E	03-03-028	468-95-360	NEW	03-06-053	504-18-170	AMD-P	03-10-058
468-95-160	NEW-P	03-03-029	468-95-370	NEW-E	03-03-028	504-18-170	AMD-P	03-10-058
468-95-160	NEW	03-06-053	468-95-370	NEW-P	03-03-029	504-19-810	AMD-P	03-10-059
468-95-170	NEW-E	03-03-028	468-95-370	NEW	03-06-053	504-19-830	AMD-P	03-10-059
468-95-170	NEW-P	03-03-029	468-95-370	NEW-E	03-03-028	504-25-001	AMD-P	03-10-060
468-95-170	NEW	03-06-053	468-95-400	NEW-P	03-03-029	504-25-004	REP-P	03-10-060
468-95-180	NEW-E	03-03-028	468-95-400	NEW	03-06-053	504-25-012	REP-P	03-10-060
468-95-180	NEW-P	03-03-029	468-95-400	NEW-E	03-03-028	504-25-012	REP-P	03-10-060
468-95-180	NEW	03-06-053	468-95-400	NEW-P	03-03-029	504-25-012	REP-P	03-10-060
468-95-180	NEW-E	03-03-028	468-95-400	NEW	03-06-053	504-25-025	AMD-P	03-10-060
468-95-190	NEW-P	03-03-029	468-300-010	AMD-P	03-04-102	504-25-025	AMD-P	03-10-060
468-95-190	NEW	03-06-053	468-300-010	AMD	03-08-072	504-25-030	AMD-P	03-10-060
468-95-200	NEW-E	03-03-028	468-300-010	AMD	03-08-072	504-25-035	AMD-P	03-10-060
468-95-200	NEW-P	03-03-029	468-300-020	AMD-P	03-04-102	504-25-035	AMD-P	03-10-060
468-95-200	NEW	03-06-053	468-300-020	AMD	03-08-072	504-25-040	AMD-P	03-10-060
468-95-210	NEW-E	03-03-028	468-300-020	AMD	03-08-072	504-25-043	NEW-P	03-10-060
468-95-210	NEW-P	03-03-029	468-300-040	AMD-P	03-04-102	504-25-050	AMD-P	03-10-060
468-95-210	NEW	03-06-053	468-300-040	AMD	03-08-072	504-25-051	NEW-P	03-10-060
468-95-220	NEW-E	03-03-028	468-300-220	AMD-P	03-04-102	504-25-085	AMD-P	03-10-060
468-95-220	NEW-P	03-03-029	468-300-220	AMD	03-08-072	504-25-137	AMD-P	03-10-060
468-95-220	NEW	03-06-053	468-300-220	AMD	03-08-072	504-25-138	AMD-P	03-10-060
468-95-230	NEW-E	03-03-028	468-300-700	AMD-P	03-04-102	504-25-138	AMD-P	03-10-060
468-95-230	NEW-P	03-03-029	468-300-700	AMD	03-08-072	504-25-200	AMD-P	03-10-060
468-95-230	NEW	03-06-053	468-300-700	AMD	03-08-072	504-25-200	AMD-P	03-10-060
468-95-240	NEW-E	03-03-028	468-510-010	AMD-E	03-06-014	504-25-201	AMD-P	03-10-060
468-95-240	NEW-P	03-03-029	468-510-010	AMD-E	03-14-050	504-25-205	AMD-P	03-10-060
468-95-240	NEW	03-06-053	478-04	PREP	03-09-040	504-25-215	AMD-P	03-10-060
468-95-250	NEW-E	03-03-028	478-132-030	AMD	03-08-040	504-25-215	AMD-P	03-10-060
468-95-250	NEW-P	03-03-029	478-138-060	AMD-X	03-05-019	504-25-222	AMD-P	03-10-060
468-95-250	NEW	03-06-053	478-138-060	AMD	03-12-007	504-25-224	AMD-P	03-10-060
468-95-260	NEW-E	03-03-028	478-140-018	AMD-X	03-05-019	504-25-226	AMD-P	03-10-060
468-95-260	NEW-P	03-03-029	478-140-018	AMD	03-12-007	504-25-227	AMD-P	03-10-060
468-95-260	NEW	03-06-053	478-140-018	AMD	03-12-007	504-25-228	AMD-P	03-10-060
468-95-270	NEW-E	03-03-028	478-160-085	AMD-X	03-05-019	504-25-228	AMD-P	03-10-060
468-95-270	NEW-P	03-03-029	478-160-085	AMD	03-12-007	504-25-229	AMD-P	03-10-060
468-95-270	NEW	03-06-053	478-160-085	AMD	03-12-007	504-25-230	AMD-P	03-10-060
468-95-270	NEW-E	03-03-028	478-168-170	AMD-X	03-05-019	504-25-231	REP-P	03-10-060
468-95-270	NEW-P	03-03-029	478-168-170	AMD	03-12-007	504-25-231	REP-P	03-10-060
468-95-270	NEW	03-06-053	478-168-170	AMD	03-12-007	504-25-245	AMD-P	03-10-060
468-95-270	NEW-E	03-03-028	478-276-140	AMD-X	03-05-019	504-25-310	AMD-P	03-10-060
468-95-270	NEW-P	03-03-029	478-276-140	AMD	03-12-007	504-25-310	AMD-P	03-10-060
468-95-270	NEW	03-06-053	478-276-140	AMD	03-12-007	504-25-315	AMD-P	03-10-060
468-95-270	NEW-E	03-03-028	478-324-020	AMD-X	03-05-019	504-25-320	AMD-P	03-10-060
468-95-270	NEW-P	03-03-029	478-324-020	AMD	03-12-007	504-25-320	AMD-P	03-10-060
468-95-270	NEW	03-06-053	478-324-020	AMD	03-12-007	504-25-325	AMD-P	03-10-060
468-95-270	NEW-E	03-03-028	478-324-045	AMD-X	03-05-019	504-25-330	AMD-P	03-10-060
468-95-270	NEW-P	03-03-029	478-324-045	AMD	03-12-007	504-25-330	AMD-P	03-10-060
468-95-270	NEW	03-06-053	478-324-045	AMD	03-12-007	504-25-335	AMD-P	03-10-060

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
504- 25-340	AMD-P	03-10-060						
504- 25-350	AMD-P	03-10-060						
504- 25-355	AMD-P	03-10-060						
504- 25-360	AMD-P	03-10-060						
516- 60	PREP	03-14-041						

TABLE

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ACADEMIC ACHIEVEMENT AND ACCOUNTABILITY

COMMISSION

Meetings MISC 03-02-027
 Performance and improvement goals
 PREP 03-02-013
 PROP 03-05-101
 PERM 03-09-144

ACCOUNTANCY, BOARD OF

Ethics and prohibited acts independence PREP 03-12-083
 Examinations application procedure
 PREP 03-01-101
 PROP 03-09-051
 PROP 03-10-036
 PREP 03-05-012
 PROP 03-09-052
 PREP 03-01-102
 PREP 03-12-052
 MISC 03-01-100
 cheating
 fees
 General provisions
 Meetings MISC 03-01-100

ADVANCED TUITION PAYMENT, COMMITTEE ON

Meetings MISC 03-03-050

AGING AND ADULT SERVICES

(See **SOCIAL AND HEALTH SERVICES, DEPARTMENT OF**)

AGRICULTURE, DEPARTMENT OF

Aquaculture identification requirements EXPE 03-08-088
 PERM 03-13-005
 Asparagus commission MISC 03-03-005
 MISC 03-06-082
 Barley commission MISC 03-04-034
 Beef commission MISC 03-03-073
 MISC 03-05-013
 MISC 03-08-014
 MISC 03-10-031
 Caneberry certification fees PREP 03-03-120
 PROP 03-07-089
 PERM 03-10-081
 Canola/rapeseed commission MISC 03-01-120
 Dairy products commission MISC 03-04-015
 Dry pea and lentil marketing order PROP 03-06-101
 Fertilizer
 label information PREP 03-13-114
 violations **PERM** 03-02-100
 Forest reproductive material PROP 03-02-094
 PERM 03-06-006
 Fruit and vegetable inspection fees PREP 03-03-131
 PROP 03-07-081
 PREP 03-10-102
 Grain inspection fees PREP 03-03-086
 PROP 03-07-082
 PERM 03-12-040
 PERM 03-09-112
 Grapevines, inspection fees EXPE 03-03-124
 PERM 03-08-018
 EXPE 03-13-129
 Hop commission MISC 03-01-074
 Horticulture
 bacterial ring rot in seed potatoes EXPE 03-01-126
 PERM 03-05-079
 PROP 03-07-091
 PERM 03-10-083
 PREP 03-01-125
 plant tagging requirements
 winter pears, controlled atmosphere storage requirements **PREP** 03-14-142
 Liquefied petroleum gas, motor and heating fuel PROP 03-03-122
 Livestock
 inspection and identification PREP 03-13-128
 Noxious weed control board meetings MISC 03-04-037
 MISC 03-08-059
 MISC 03-10-013
 MISC 03-12-015
 PREP 03-10-012
 PERM 03-04-001
 EXPE 03-11-098
 PROP 03-06-102
 PREP 03-14-135
 Nursery inspection fees
 monetary penalties
 noxious weed list
 yellow nutsedge
 Nursery inspection fees
 Organic foods
 certification of processors
 standards and certification
 PERM 03-03-044
 PERM 03-03-045

Pesticides

Franklin County, restricted use EXPE 03-07-037
 PERM 03-11-097
 EXPE 03-09-088
 PERM 03-14-044
 mevinphos (phosdrin) **PERM** 03-14-044
 PROP 03-02-099
 PERM 03-05-034
 mosquito larvae control
 secondary and operational area containment of bulk pesticides PROP 03-05-075
 PERM 03-09-034
 PROP 03-02-098
 PERM 03-05-033
 thiamethoxam
 Poultry
 chicken slaughter PREP 03-12-093
 Exotic Newcastle Disease quarantine EMER 03-03-085
 Public notice
 spartina treatment MISC 03-09-067
 MISC 03-11-049
 MISC 03-13-102

Quarantine

Exotic Newcastle Disease (END) PREP 03-12-020
 EMER 03-12-021
 PROP 03-07-092
 PERM 03-10-082
 EXPE 03-11-098
 EXPE 03-13-130
 plant pathology fees
 yellow nutsedge
 Refrigerator locker establishments
 Rules EXPE 03-13-130

Rules

agenda MISC 03-04-068
 MISC 03-06-025
 PROP 03-09-035
 PROP 03-10-062
 PROP 03-12-042
 PROP 03-02-095
 PROP 03-03-130
 PERM 03-06-005
 PERM 03-08-005
 PREP 03-12-084
 PREP 03-12-085
 PREP 03-03-121
 PROP 03-07-090
 PERM 03-10-080
 withdrawal
 Seed certification and fees

Seed certification and fees

Strawberry plant certification fees
 Erratum
 See PREP 03-06
 Turfgrass seed commission MISC 03-01-121
 Warehouses and grain dealers, emergency storage PREP 03-12-086
 Weights and measures
 national standards EXPE 03-03-123
 PERM 03-08-017
 PERM 03-01-048
 MISC 03-04-002
 Wine commission

Wine commission

Erratum
 See PREP 03-06
 Turfgrass seed commission MISC 03-01-121
 Warehouses and grain dealers, emergency storage PREP 03-12-086
 Weights and measures
 national standards EXPE 03-03-123
 PERM 03-08-017
 PERM 03-01-048
 MISC 03-04-002

AIR POLLUTION

(See **ECOLOGY, DEPARTMENT OF**; individual air pollution control agencies)

ASIAN PACIFIC AMERICAN AFFAIRS, COMMISSION ON

Meetings MISC 03-04-057

ATTORNEY GENERAL

Notice of request for opinion MISC 03-04-114
 MISC 03-05-045
 MISC 03-06-022
 MISC 03-07-084
 MISC 03-09-056
 MISC 03-10-023

BATES TECHNICAL COLLEGE

Meetings MISC 03-01-090
 MISC 03-03-088
 MISC 03-03-094
 MISC 03-04-014
 MISC 03-06-068
 MISC 03-08-007
 MISC 03-09-039
 MISC 03-11-011
 MISC 03-11-012
 MISC 03-12-001
 MISC 03-12-059
 MISC 03-12-073
 MISC 03-13-010
 MISC 03-13-016

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	MISC	03-13-076			
	MISC	03-13-097			
Student rights and responsibilities	PREP	03-09-041			
BELLEVUE COMMUNITY COLLEGE					
Calendar	PROP	03-08-019			
	PERM	03-14-014			
Complaint procedures	PREP	03-04-073			
	PROP	03-08-020			
	PERM	03-14-013			
Meetings	PERM	03-14-138			
Organization and operating policies	MISC	03-01-085			
Parking and traffic procedures	PERM	03-01-009			
State Environmental Policy Act	PREP	03-04-074			
Student code	PERM	03-01-008			
	PREP	03-04-075			
	PROP	03-08-021			
	PERM	03-14-015			
BELLINGHAM TECHNICAL COLLEGE					
Meetings	MISC	03-01-028			
	MISC	03-01-083			
	MISC	03-03-003			
	MISC	03-03-013			
	MISC	03-05-066			
	MISC	03-06-023			
	MISC	03-07-029			
	MISC	03-08-016			
	MISC	03-08-091			
	MISC	03-09-037			
	MISC	03-09-038			
	MISC	03-10-054			
	MISC	03-13-020			
Rules coordinator	MISC	03-03-014			
BENTON CLEAN AIR AUTHORITY					
Meetings	MISC	03-03-104			
BIG BEND COMMUNITY COLLEGE					
Meetings	MISC	03-02-048			
Policies and procedures	PROP	03-11-006			
BLIND, DEPARTMENT OF SERVICES FOR THE					
Meetings	MISC	03-03-058			
	MISC	03-10-047			
BUILDING CODE COUNCIL					
Building code review	PREP	03-08-027			
Elevator shaft pressurization	PERM	03-01-055			
Meetings	MISC	03-01-056			
Policies and procedures	PREP	03-12-017			
CAMPING					
(See GENERAL ADMINISTRATION, DEPARTMENT OF;					
GOVERNOR OFFICE OF THE)					
CASCADIA COMMUNITY COLLEGE					
Meetings	MISC	03-01-099			
CENTRAL WASHINGTON UNIVERSITY					
Meetings	MISC	03-03-049			
	MISC	03-14-030			
CLARK COLLEGE					
Meetings	MISC	03-02-025			
Rules coordinator	MISC	03-02-034			
CODE REVISER'S OFFICE					
Quarterly reports					
02-19 - 02-24 See Issue 03-01					
03-01 - 03-06 See Issue 03-07					
COLUMBIA BASIN COLLEGE					
Meetings	MISC	03-01-036			
COLUMBIA RIVER GORGE COMMISSION					
Appeals					
county ordinances	PROP	03-09-078			
	PERM	03-14-052			
Gorge commission ordinances	PROP	03-09-079			
	PERM	03-14-053			
Rules coordinator	MISC	03-09-011			
			COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR		
			Certification requirements for professional-technical faculty	PREP	03-14-124
			Excess credits, tuition and fees	PREP	03-14-123
			Tuition charges for upgraded courses	PREP	03-09-043
			COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF		
			Community development, office of low-income home energy assistance program		
			abbreviated model plan	MISC	03-11-038
			public hearings	MISC	03-08-063
			Community economic revitalization board meetings	MISC	03-08-015
			Manufactured housing installer training and certification program		
			application fees	PERM	03-07-035
			Office of manufactured housing	PERM	03-07-036
			Public works board meetings	MISC	03-03-036
				MISC	03-05-032
			CONSERVATION COMMISSION		
			Meetings	MISC	03-01-066
			CONVENTION AND TRADE CENTER		
			Meetings	MISC	03-01-067
				MISC	03-01-068
				MISC	03-01-098
				MISC	03-03-092
				MISC	03-05-055
				MISC	03-05-056
				MISC	03-07-060
				MISC	03-09-045
				MISC	03-09-046
				MISC	03-11-036
				MISC	03-12-010
				MISC	03-13-057
				MISC	03-13-058
				MISC	03-14-125
			CORRECTIONS, DEPARTMENT OF		
			Meetings	MISC	03-03-030
				MISC	03-10-025
			Rules agenda	MISC	03-02-075
			COUNTY ROAD ADMINISTRATION BOARD		
			County road log	PERM	03-05-009
			Meetings	MISC	03-04-106
				MISC	03-10-056
			Rules coordinator	MISC	03-01-091
				MISC	03-07-017
			Rural arterial trust account (RATA)		
			eligibility	PERM	03-05-010
			emergency projects	PERM	03-05-011
			limitations on allocations	PROP	03-05-008
				PERM	03-11-046
			CRIMINAL JUSTICE TRAINING COMMISSION		
			Basic certification	PROP	03-01-038
				PREP	03-05-090
				PERM	03-07-099
				PROP	03-09-010
				PERM	03-13-098
			Corrections training	PERM	03-02-009
			Firearms certification	PERM	03-02-007
				PERM	03-02-008
			Fully commissioned part-time officers, training	PREP	03-11-055
			Peace officer certification	PERM	03-02-010
			Police dog handlers	PROP	03-03-091
				PERM	03-07-100
			Private investigators	PERM	03-07-098
			Railroad police officers	PREP	03-11-056
			Rules withdrawal	PROP	03-01-092
			DEAF, WASHINGTON STATE SCHOOL FOR THE		
			Meetings	MISC	03-01-105
				MISC	03-03-087

Subject/Agency Index
(Citation in bold type refer to material in this issue)

	MISC 03-05-004	renewal	EXPE 03-10-071
	MISC 03-11-022	standards	PREP 03-01-081
	MISC 03-14-055		PROP 03-04-019
EASTERN WASHINGTON UNIVERSITY			PERM 03-04-022
Alcoholic beverages on campus, policies	PREP 03-08-013		PERM 03-04-024
Meetings	PROP 03-11-099		PERM 03-04-025
	MISC 03-01-073		PREP 03-04-109
	MISC 03-03-125		PREP 03-09-019
	MISC 03-04-016		PROP 03-09-023
	MISC 03-06-017		PROP 03-10-070
	MISC 03-06-077		PREP 03-10-076
	MISC 03-07-021		PERM 03-12-035
	MISC 03-07-069		PREP 03-12-036
	MISC 03-10-052		PERM 03-14-115
	MISC 03-11-064	teacher professional certificate	PERM 03-14-119
	MISC 03-12-008	uniform expiration date	PREP 03-09-020
	MISC 03-14-029		PREP 03-07-004
	MISC 03-14-094		EMER 03-08-060
	MISC 03-14-139		PROP 03-09-029
		Courses of study	PERM 03-14-120
ECOLOGICAL DEPARTMENT OF		District organization	PERM 03-04-054
Agricultural water supply facilities	PROP 03-02-033	clarifications, rules	PREP 03-12-037
Controlled substances, disposal of dangerous waste	PERM 03-07-104	regional committee decision-making criteria	EMER 03-14-117
Delegation, employees	EMER 03-03-047	small schools	PREP 03-02-074
Implementation plan revision, state Meetings	PERM 03-07-049	Education centers	PREP 03-10-072
Oil spill compensation	EXPE 03-04-081	Endorsements	PREP 03-02-073
Public hearings	PERM 03-10-019		PREP 03-04-021
Rules	MISC 03-05-091		PERM 03-04-023
agenda	MISC 03-01-057		PROP 03-09-024
withdrawal	MISC 03-05-049		EMER 03-09-025
Shorelines management	EXPE 03-06-036		PROP 03-09-026
Skagit River instream flow rule	PERM 03-11-010		EMER 03-09-027
Solid waste	MISC 03-10-061		PERM 03-14-114
financial assurance requirements	MISC 03-12-097	First people's language certification	PERM 03-14-122
handling standards		GED	PERM 03-04-026
incinerator facilities	MISC 03-02-089	High school	PREP 03-10-073
State Environmental Policy Act (SEPA)	MISC 03-14-128	graduation requirements	PREP 03-04-110
Total maximum daily load (TMDL)	PREP 03-06-034		EMER 03-09-018
Wastewater	PREP 03-06-035		PROP 03-09-028
stormwater management manual	PREP 03-03-019	transcripts	PERM 03-14-118
Water	PROP 03-13-108	Library media centers	PERM 03-04-055
surface water quality standards	PREP 03-10-011	Meetings	PREP 03-01-075
underground artificial storage	PREP 03-14-023		PREP 03-10-074
Water rights	PERM 03-04-103	National certification	MISC 03-01-046
water conservancy boards	PERM 03-03-043		MISC 03-06-041
	EXPE 03-05-095		MISC 03-11-065
	PERM 03-10-020		PREP 03-04-020
	PROP 03-13-077		EMER 03-04-027
	PROP 03-03-082		EMER 03-04-028
	MISC 03-05-050	Preparation programs	EMER 03-09-025
	MISC 03-13-109		PREP 03-09-019
			PREP 03-09-021
			PREP 03-09-085
			PREP 03-09-086
			EMER 03-12-038
			EMER 03-12-039
		Private schools	PERM 03-04-053
			PROP 03-14-111
			PROP 03-14-112
			PROP 03-14-113
			PERM 03-14-114
ECONOMIC DEVELOPMENT FINANCE AUTHORITY		Pupils	
Meetings	MISC 03-04-071	immunization	PERM 03-13-079
	MISC 03-09-077	Rules	
	MISC 03-13-021	withdrawal	PROP 03-03-060
			PROP 03-03-061
			PROP 03-03-062
EDMONDS COMMUNITY COLLEGE		School accreditation	PREP 03-04-111
Meetings	MISC 03-02-028	School construction	PREP 03-04-112
		State assistance in providing school plant facilities modernization	PREP 03-10-077
EDUCATION, STATE BOARD OF			EMER 03-14-116
Adult education	PREP 03-10-075		
Assignment of classroom teachers	PREP 03-09-022	EDUCATOR STANDARDS BOARD, PROFESSIONAL	
	PREP 03-09-084	Meetings	MISC 03-02-061
	EMER 03-14-121		
Certification		EMPLOYMENT SECURITY, DEPARTMENT OF	
investigative proceedings	PREP 03-09-082	Extended benefits	PROP 03-01-103
	PREP 03-09-083		PERM 03-06-038
	PREP 03-10-028	Rules	
	PREP 03-10-029		

Subject/Agency Index

(Citation in bold type refer to material in this issue)

	EMER 03-11-082		PROP 03-13-141
	EMER 03-12-032	black bear	PERM 03-02-005
	EMER 03-12-060	cougar removal	PREP 03-13-111
	EMER 03-13-039		PROP 03-13-142
gamefish	EMER 03-13-066	depredation permits	PREP 03-01-052
	EMER 03-06-028		PROP 03-06-066
	EMER 03-07-023		PERM 03-10-009
	EMER 03-08-054	designated hunter companion rules	PREP 03-02-045
	EMER 03-13-013		PROP 03-06-079
halibut	EMER 03-09-061		PERM 03-10-040
	EMER 03-11-026	equipment restrictions	PROP 03-06-104
	EMER 03-11-081		PERM 03-13-047
	EMER 03-13-019	game management units	PROP 03-02-103
	EMER 03-13-070		PERM 03-06-110
licenses			PROP 03-06-112
permanent annual	PREP 03-13-031		PERM 03-13-047
lingcod	EMER 03-07-032		PROP 03-13-117
rules, areas and seasons	PERM 03-05-057		PROP 03-13-118
	EXPE 03-12-094		PROP 03-13-119
salmon	EMER 03-05-037		PROP 03-13-120
	EMER 03-06-007		PROP 03-13-121
	EMER 03-07-001	nontoxic shot requirements	PROP 03-13-088
	EMER 03-09-001	private lands wildlife management	PERM 03-03-016
	EMER 03-10-001	season and limits	PROP 03-06-106
	EMER 03-10-015		PREP 03-09-120
	EMER 03-10-032		PERM 03-13-047
	EMER 03-10-033		PROP 03-13-116
	EMER 03-10-039	small game seasons	PREP 03-02-102
	EMER 03-10-053	special closures	PROP 03-06-108
	EMER 03-11-001		PROP 03-06-113
	EMER 03-11-037		PROP 03-06-114
	EMER 03-12-022		PERM 03-13-047
	EMER 03-12-041		PERM 03-02-005
	EXPE 03-12-095	special hunting season permits	PREP 03-06-032
	EMER 03-13-001		PROP 03-06-105
	EMER 03-13-068		PROP 03-12-077
	EMER 03-13-094		PERM 03-13-047
	EXPE 03-14-069	trapping seasons and regulations	PROP 03-06-107
	EMER 03-14-073		PERM 03-13-047
	EMER 03-06-001	waterfowl	EMER 03-02-006
sea urchins			EMER 03-03-102
shellfish			PROP 03-13-115
clams other than razor clams	EMER 03-02-093		PERM 03-03-016
	EMER 03-07-025	Livestock grazing	PERM 03-02-047
	EMER 03-02-093	Marine fin fish aquaculture	PREP 03-13-139
oysters	EMER 03-09-014	Nuisance wildlife control operator permits	PREP 03-02-035
shrimp	EMER 03-10-034	Oyster diseases and shellfish pests	PROP 03-06-109
	EMER 03-11-003		PERM 03-10-041
	EMER 03-12-079		PERM 03-02-005
	EMER 03-13-038	Raptors	
	EMER 03-13-107	Rules	
	EMER 03-14-150	agenda	MISC 03-02-107
smelt	EMER 03-02-018		MISC 03-14-148
	EMER 03-05-025		PROP 03-02-082
stationary gear	EXPE 03-13-144	withdrawals	PROP 03-02-084
steelhead	EMER 03-03-004		PROP 03-10-095
	EMER 03-03-098	SEPA procedures	PREP 03-02-076
	EMER 03-04-047		PROP 03-06-080
	EMER 03-05-003		PERM 03-10-038
	EMER 03-05-038	Wildlife	
	EMER 03-06-008	dogs, custody for harassing deer or elk	EMER 03-08-075
	EMER 03-06-009	possession	PREP 03-06-033
	EMER 03-07-016		PROP 03-12-078
	EMER 03-07-064		
	EMER 03-07-068		
	EMER 03-10-053		
sturgeon	EMER 03-03-135		
	EMER 03-07-075		
	PREP 03-08-099		
	EXPE 03-13-011		
	EMER 03-13-069		
	PROP 03-13-086		
	EMER 03-14-028		
	EMER 03-14-093		
	EMER 03-09-016		
	EMER 03-10-053		
	EMER 03-13-003		
		FOREST PRACTICES BOARD	
		(See NATURAL RESOURCES, DEPARTMENT OF)	
		GAMBLING COMMISSION	
		Bingo	PREP 03-02-042
			PREP 03-03-084
			PROP 03-05-088
			PREP 03-06-021
			PREP 03-09-101
			PREP 03-09-102
			PERM 03-11-040
		Card rooms	PREP 03-05-086
			PROP 03-05-087
			PERM 03-09-076
	EMER 03-08-047		PROP 03-13-135
sturgeon	MISC 03-12-080	Control of gambling equipment	PERM 03-02-043
Hatchery genetic management plans		Equipment	PREP 03-04-065
Hunting			PERM 03-05-089
advanced hunter education	PERM 03-01-077		
big game and wild turkey auction	PERM 03-03-016		

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	PREP	03-06-051	Mutuels	PREP	03-05-068
	PREP	03-07-101		PROP	03-09-133
	PREP	03-07-102	Nonparimutuel wagering	PREP	03-03-025
	PROP	03-14-016		PROP	03-07-051
	PROP	03-14-137		PERM	03-11-016
Sewer systems			Policy and interpretive statements	MISC	03-09-095
large on-site sewage systems	PREP	03-08-028	Rules		
	PROP	03-12-089	reviews	PREP	03-09-131
Uniform controlled substances			withdrawals	PROP	03-05-069
xyrem	EXPE	03-03-096		PROP	03-11-014
Veterinary board of governors			Samples taken from horses	PROP	03-13-072
animal technician	PROP	03-04-104		PREP	03-03-038
	PERM	03-11-034		PROP	03-07-052
services for low-income persons	PROP	03-06-100		PERM	03-11-018
	PERM	03-14-035	Transmission of simulcast signal	PREP	03-01-017
Water recreation facilities	PROP	03-11-030		PROP	03-04-090
	PERM	03-14-146		PERM	03-07-058
Water systems			Who may claim	PREP	03-01-018
drinking water	PROP	03-03-078			
	PROP	03-03-079	HUMAN RIGHTS COMMISSION		
	PREP	03-04-044	Meetings	MISC	03-02-052
	PREP	03-05-020			
	PERM	03-08-037	HUNTING		
fees	PROP	03-08-036	(See FISH AND WILDLIFE, DEPARTMENT OF)		
group A public water systems	PERM	03-13-028			
	PREP	03-07-103	INDUSTRIAL INSURANCE APPEALS, BOARD OF		
HIGHER EDUCATION CONSORTIUM			Practice and procedure	PERM	03-02-038
Meetings	MISC	03-01-059			
	MISC	03-02-029	INSURANCE COMMISSIONER		
	MISC	03-05-065	Automobile claims, repairs, and total loss	PROP	03-03-132
	MISC	03-08-045	settlements	PROP	03-09-143
				PERM	03-14-092
HIGHER EDUCATION COORDINATING BOARD			Health insurance		
Branch campuses	PREP	03-13-075	state health insurance pool	PERM	03-07-007
Community scholarship matching grant program	PERM	03-04-101	Longshore and harbor workers assigned risk plan	PERM	03-03-052
Degree-granting Institutions Act	PREP	03-04-079	Mortality tables	PREP	03-07-005
Meetings	MISC	03-03-046	Network reports	EXPE	03-03-134
Student residency	PREP	03-06-081		PERM	03-09-142
	PROP	03-09-145	Pharmacy identification cards	PERM	03-07-006
	PERM	03-13-056	Rules		
	PREP	03-13-110	withdrawal	PROP	03-03-063
				PROP	03-08-071
HIGHLINE COMMUNITY COLLEGE			Special liability report	PROP	03-10-096
Meetings	MISC	03-01-084	Technical assistance advisory	PERM	03-03-133
				MISC	03-03-093
HISPANIC AFFAIRS, COMMISSION ON				MISC	03-13-048
Meetings	MISC	03-05-077			
	MISC	03-09-048	INTERAGENCY COMMITTEE, OFFICE OF THE		
HORSE RACING COMMISSION			Interagency committee for outdoor recreation		
Association officials and employees	PREP	03-05-067	meetings	MISC	03-01-041
	PROP	03-09-132		MISC	03-03-037
	PERM	03-13-074	salmon recovery funding board	MISC	03-06-018
Claiming process and procedure	PREP	03-07-050	Rules	MISC	03-13-131
Closing of wager	PREP	03-01-016	agenda	MISC	03-01-043
	PROP	03-04-089			
	PERM	03-07-057	INTEREST RATES		
Communications systems	PROP	03-02-015	(See inside cover)		
	PROP	03-05-070			
	PROP	03-09-134	INVESTMENT BOARD, STATE		
	PERM	03-13-073	Meetings	MISC	03-03-020
Executive secretary, duties	PERM	03-03-041		MISC	03-03-057
Financial responsibility	PROP	03-03-040	Rules		
	PERM	03-07-056	coordinator	MISC	03-09-113
Furosemide	PROP	03-01-019			
	PERM	03-06-004	JAIL INDUSTRIES BOARD		
Head to head wagering	PREP	03-03-039	Meetings	MISC	03-01-037
	PROP	03-07-053		MISC	03-03-107
	PERM	03-11-017			
Jockeys, communications devices in quarters	PROP	03-07-074	JUDICIAL CONDUCT, COMMISSION ON		
Licenses	PREP	03-03-067	Meetings	MISC	03-01-021
	PROP	03-07-054		MISC	03-01-106
	PERM	03-11-015		MISC	03-09-044
Marijuana testing	PROP	03-02-016	Rules		
	PERM	03-05-071	withdrawals	PROP	03-13-064
Medication	PREP	03-03-108	Table of rules	PROP	03-05-046
	PROP	03-07-055			
	EMER	03-09-057	LABOR AND INDUSTRIES, DEPARTMENT OF		
	PERM	03-11-019	Access to records and trade secrets	PREP	03-04-097
	PREP	03-13-071			
Meetings	MISC	03-07-071			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Agriculture, safety standards	EXPE 03-04-100	Rules	
	PERM 03-10-068	corrections	PERM 03-01-070
Bloodborne pathogens	PROP 03-01-097		
	PERM 03-09-110	LAW BOARD, PRACTICE OF	
Boiler rules, board of		Meetings	MISC 03-01-118
fee	PREP 03-03-129		
	PROP 03-08-076	LICENSING, DEPARTMENT OF	
rules, clarifications	PERM 03-12-051	Camping resorts	PERM 03-03-054
Conversion factors and daily reimbursement level	PREP 03-12-081	Cemetery board	PREP 03-04-077
	PREP 03-01-095		PROP 03-08-009
	PROP 03-09-107		PERM 03-11-020
	PERM 03-14-043	Commercial motor vehicle instruction permit	PROP 03-07-097
Cranes, derricks, and other lifting equipment	PROP 03-14-075		PERM 03-10-024
Crime victims		Cosmetology, barber, manicurist, and	
family member of a homicide victim,		estheticians	PROP 03-03-119
counseling	PREP 03-11-057		PROP 03-05-058
permanent total disability benefit	PREP 03-11-058		PERM 03-06-054
Factory assembled structures	PROP 03-09-109		PERM 03-08-043
	PERM 03-12-044		PREP 03-10-084
Family care	PERM 03-03-010		PROP 03-10-085
Fees	PREP 03-04-098		PERM 03-14-046
	PROP 03-09-108	Engineers and land surveyors, board of	
	PREP 03-10-065	professional conduct and practice, rules	PREP 03-14-024
	PERM 03-12-045	rules, technical corrections	PREP 03-13-012
Fire fighters		Firearms, aliens	PERM 03-03-024
tobacco use	PROP 03-06-074	Funeral directors and embalmers, board of	PREP 03-04-076
	PERM 03-12-046		PROP 03-08-010
Hazardous energy (lockout/tagout)	PREP 03-10-064		PERM 03-11-021
Hazardous waste operations	PROP 03-14-074	Geologists	PREP 03-04-080
Hazardous waste operations		Landscape architects	PREP 03-04-056
Manufacturers, importers, and			PROP 03-08-062
distributors-hazard communication	PERM 03-01-096		PERM 03-11-074
Meetings	MISC 03-02-090	Meeting	MISC 03-07-073
Minimum wages	PERM 03-03-109	Motor vehicles	
Policy and interpretive statements	MISC 03-01-094	certificates of title	PROP 03-01-014
	MISC 03-04-096		PROP 03-03-095
	MISC 03-12-043		PROP 03-05-001
Portable power tools	PERM 03-09-009		PERM 03-05-081
Powered industrial trucks (forklifts)	PREP 03-10-066		PROP 03-06-040
Prevailing wage rates	MISC 03-06-103		PROP 03-07-080
	MISC 03-09-007		PERM 03-08-055
	MISC 03-09-008		PROP 03-08-093
Rules			PROP 03-09-031
agenda	MISC 03-03-009		PERM 03-10-097
technical corrections	EXPE 03-13-100		PERM 03-11-069
	EXPE 03-14-127		PERM 03-12-006
withdrawals	PROP 03-02-083		PERM 03-12-071
	PREP 03-09-106		PREP 03-14-022
	PROP 03-13-096	excise tax	PROP 03-12-018
	PROP 03-14-136	licenses	PREP 03-01-006
Safety and health standards			PROP 03-01-013
electrical	PROP 03-05-074		PROP 03-01-015
	PERM 03-09-111		PERM 03-05-080
electrical workers	PREP 03-07-072		PERM 03-05-082
	PROP 03-10-067		PREP 03-13-018
explosives	EXPE 03-05-073		PREP 03-14-021
	PERM 03-06-073		PERM 03-04-092
	PERM 03-10-037	registration	PREP 03-11-069A
hearing loss prevention	PERM 03-11-060	rental car taxation and licensing	PERM 03-02-001
manual on uniform traffic control devices	PERM 03-06-075	Real estate	PREP 03-02-002
respirators	PROP 03-08-044		PERM 03-02-040
respiratory hazards	PREP 03-08-073		PREP 03-03-080
	PROP 03-11-059		PREP 03-08-011
sawmills and woodworking operations	PERM 03-06-076		PREP 03-09-049
scaffold	PREP 03-03-110		PROP 03-09-058
shipbuilding and shipbreaking	PERM 03-04-099		PROP 03-09-059
showers, change rooms, and consumption of			PROP 03-11-050
food	EXPE 03-12-072		PROP 03-13-024
Vocational rehabilitation	PERM 03-11-009		PERM 03-14-019
Workers' compensation			PERM 03-14-020
monthly wage calculation	PERM 03-11-035		PERM 03-14-091
premium rates	PREP 03-13-099	Real estate commission	
reporting rules	PREP 03-03-026	meetings	MISC 03-02-003
	PREP 03-05-072	Rules	
	PROP 03-14-126	agenda	MISC 03-01-080
LAKE WASHINGTON TECHNICAL COLLEGE			MISC 03-13-023
Meetings	MISC 03-01-034	clarifications	PREP 03-09-032
	MISC 03-07-061	withdrawals	PREP 03-01-012
Refund of tuition and fees	PREP 03-07-085		PROP 03-06-072
	PROP 03-10-063		PREP 03-07-077
	PERM 03-13-080		PREP 03-07-078
			PREP 03-07-079

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Sellers of travel	PROP 03-09-075 PREP 03-10-004 PERM 03-03-055 PREP 03-14-047	OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR (See INTERAGENCY COMMITTEE, OFFICE OF THE)	
Vessels registration and certification	PROP 03-01-104 PERM 03-07-076 PROP 03-10-045 PREP 03-14-095 PREP 03-03-111	PARKS AND RECREATION COMMISSION Meetings	MISC 03-02-039 MISC 03-02-104 PREP 03-04-038 PROP 03-08-101 PERM 03-11-068 PERM 03-01-079 PREP 03-01-129
Wastewater treatment system, on-site		Public records	
LIQUOR CONTROL BOARD Violations	PROP 03-02-097 PERM 03-09-015	Public use of state parks	
LOTTERY COMMISSION Licensing procedure promotional license	PROP 03-01-047 PROP 03-07-067 PERM 03-11-054	Tree, plant and fungi cutting, removal and/or disposal	PREP 03-04-115
Meetings	MISC 03-03-059 MISC 03-04-107	PENINSULA COLLEGE Policies, practices, and procedures	PROP 03-04-056 PREP 03-04-091 PROP 03-08-056 PERM 03-13-133
Policy statements	MISC 03-04-063	PERSONNEL RESOURCES BOARD (See PERSONNEL, DEPARTMENT OF)	
LOWER COLUMBIA COLLEGE Meetings	MISC 03-01-035 MISC 03-09-006	PERSONNEL, DEPARTMENT OF Community and technical colleges, state board for	
MARINE EMPLOYEES' COMMISSION Meetings	MISC 03-01-049 MISC 03-06-078 MISC 03-09-138 MISC 03-12-075 MISC 03-12-028	definitions	EMER 03-03-042 PROP 03-07-059
Policy statement		Exemptions	
Rules		Higher education exemptions	PROP 03-10-101 EMER 03-11-004 PERM 03-13-051
clarifications	EXPE 03-08-070 PERM 03-12-074	Incumbent status for converted positions	EXPE 03-12-092
MEDICAL ASSISTANCE (See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)		Meetings	MISC 03-01-001
MILITARY, DEPARTMENT Enhanced 9-1-1 funding	PROP 03-04-108 PERM 03-10-014	Rules	
Meetings	MISC 03-03-032	withdrawals	PROP 03-11-005
MONORAIL (See SEATTLE MONORAIL PROJECT)		PIERCE COLLEGE Meetings	MISC 03-01-119 MISC 03-08-003 MISC 03-11-093 MISC 03-11-094
NATURAL RESOURCES, DEPARTMENT OF Board of natural resources meetings	MISC 03-09-063 MISC 03-10-030	PILOTAGE COMMISSIONERS, BOARD OF Docking and undocking of certain vessels	PROP 03-06-061 PERM 03-09-097
Forest practices board administrative procedures meetings	PREP 03-09-114 MISC 03-01-128 MISC 03-03-011 MISC 03-06-019 MISC 03-01-127	Grays Harbor pilotage district annual tariff	PROP 03-09-135 PERM 03-14-042 PROP 03-08-058 PERM 03-12-019 PROP 03-06-060 PERM 03-09-096
rules coordinator		Puget Sound pilotage district tariff and rates	
small forest landowners		Relieving pilots for cause	
riparian easement program	PERM 03-06-039	POLLUTION LIABILITY INSURANCE AGENCY Technical assistance reference	PROP 03-01-007 PERM 03-06-015
road maintenance and abandonment	PREP 03-11-061	PROFESSIONAL EDUCATOR STANDARDS BOARD (See EDUCATOR STANDARDS BOARD, PROFESSIONAL)	
Natural heritage advisory council	MISC 03-04-093 MISC 03-09-104	PUBLIC DISCLOSURE COMMISSION Contribution limitations	
Rules		voluntary payroll deductions	PROP 03-01-089 PROP 03-04-094 PERM 03-08-050 PROP 03-01-088 PERM 03-08-052 EXPE 03-13-105 MISC 03-01-020 PREP 03-04-095 PROP 03-08-051 PERM 03-12-033 PERM 03-12-034 PREP 03-13-104
agenda	MISC 03-02-108 MISC 03-04-061 MISC 03-14-130 MISC 03-13-132	withholding authorizations	
coordinator		Enforcement procedures	
NORTHWEST AIR POLLUTION AUTHORITY (NWAPA) Regulation amendments	PROP 03-11-091	Meetings	
OLYMPIC COLLEGE Meetings	MISC 03-01-122 MISC 03-02-049	Primary election pledges	
OLYMPIC REGION CLEAN AIR AGENCY Conformity with state and federal air quality laws	PROP 03-11-045 PROP 03-06-029 PERM 03-09-053	Reporting requirements	
Open fires		Rules	
		agenda	MISC 03-04-069
		PUBLIC EMPLOYMENT RELATIONS COMMISSION Personnel System Reform Act of 2002	PERM 03-03-064 EMER 03-03-065 PREP 03-03-066 PROP 03-07-093 PREP 03-03-066
		Practice and procedure	
		Representation case rules	

Subject/Agency Index

(Citation in bold type refer to material in this issue)

	PROP	03-07-093	Survivor benefits	PREP	03-13-026
	EMER	03-11-028	Teachers' retirement system	PROP	03-01-051
	PERM	03-11-029	earnable compensation	PREP	03-09-093
Rules			time limit		
agenda	MISC	03-01-058			
PUBLIC INSTRUCTION, SUPERINTENDENT OF					
Allocations, special	PERM	03-03-001	REVENUE, DEPARTMENT OF		
	PREP	03-14-039	Business and occupation tax	PREP	03-11-048
Buses	PREP	03-03-033	motor vehicles, sales to nonresidents		
	PREP	03-03-034	new motor vehicles, exemption for wholesale	PERM	03-07-066
	PROP	03-09-050	sales	PERM	03-09-062
	PERM	03-13-049	tangible personal property		
Enrollment	PREP	03-13-009	Excise tax	PROP	03-04-032
Finance			extracting natural products	PROP	03-09-146
maintenance and operation levies	PREP	03-05-093	farmers, tax-reporting responsibilities	PREP	03-03-101
	PROP	03-13-103	high technology business tax incentives	PROP	03-08-069
Rules				PERM	03-12-053
withdrawal	PROP	03-07-070	sewage collection businesses	PROP	03-13-022
Special education			tax on internal distribution	EXPE	03-04-030
safety net	PERM	03-02-053	tobacco distributors	PROP	03-08-042
				PERM	03-12-058
PUGET SOUND CLEAN AIR AGENCY					
Asbestos-containing waste material	PROP	03-03-128	Forest land and timber	PERM	03-02-004
	PERM	03-06-062		PREP	03-05-084
Fees				PREP	03-09-100
asbestos program	PROP	03-08-095		PROP	03-10-079
	PERM	03-12-050		PERM	03-14-072
construction, notice of	PROP	03-08-094	Interpretive or policy statements	MISC	03-02-054
general regulatory orders	PROP	03-08-094		MISC	03-03-116
	PERM	03-12-048		MISC	03-03-117
operating permit	PROP	03-08-097		MISC	03-03-118
	PERM	03-12-049		MISC	03-04-029
registration	PROP	03-08-096		MISC	03-05-083
	PERM	03-12-047		MISC	03-08-068
Gasoline marketing	PERM	03-02-024		MISC	03-09-099
Mitigation of greenhouse gas emissions	PROP	03-01-107		MISC	03-11-047
Motor vehicle refinishing, EPA compliance	PROP	03-13-134		MISC	03-11-077
Rules				MISC	03-11-078
withdrawal	PROP	03-04-049		MISC	03-14-045
				MISC	03-14-070
				MISC	03-14-071
				MISC	03-14-089
QUARTERLY REPORTS					
(See CODE REVISER'S OFFICE)					
RENTON TECHNICAL COLLEGE					
Meetings	MISC	03-02-012	Property tax	PREP	03-03-100
	MISC	03-05-017	listing personal property	PROP	03-09-098
			seniors and disabled, exemptions	PROP	03-03-099
				PERM	03-09-002
				EXPE	03-11-095
RETIREMENT SYSTEMS, DEPARTMENT OF					
Actuarial factors	PROP	03-02-041	Real estate excise tax	PREP	03-07-065
	PERM	03-06-044	refunds of tax paid	PROP	03-11-079
Annuities	PREP	03-09-137	Rules		
Emergency payments for terminally ill members	PREP	03-06-099	agenda	MISC	03-02-106
General provisions				MISC	03-14-090
excess compensation	PROP	03-01-050	Sales tax		
	PERM	03-06-043	motor vehicles, sales to nonresidents	PREP	03-11-048
property division in dissolution orders	PROP	03-05-042	Ships and vessels	PREP	03-01-109
Law enforcement officers' and fire fighters'				PROP	03-09-147
retirement system			Use tax		
earnable compensation	PROP	03-01-051	promotional material	EMER	03-04-031
survivor benefit options	PROP	03-05-042			
	PERM	03-12-014			
Legal orders, processing fees	PREP	03-08-012	RULES COORDINATORS		
Military service credit	PREP	03-09-054	(See Issue 03-01 for complete list designated as		
Pension-related bills	PREP	03-07-062	of 12/19/02)		
Public employees' retirement system			Bates technical college	MISC	03-03-013
choice rights or transfer rights to Plan 3	PROP	03-11-044	Clark college	MISC	03-02-034
earnable compensation	PROP	03-01-051	Columbia River Gorge Commission	MISC	03-09-011
	PERM	03-06-042	County road administration board	MISC	03-01-091
elected and appointed officials	PROP	03-05-041		MISC	03-07-017
	PERM	03-08-090	Employment security department	MISC	03-06-037
Public safety officers	PREP	03-07-063	Energy facility site evaluation council	MISC	03-12-031
	PROP	03-13-101	Forest practices board	MISC	03-01-127
Purchasing service credit, lump sum costs	PREP	03-04-017	Investment board, state	MISC	03-09-113
	EMER	03-10-007	Natural resources, department of	MISC	03-13-132
	PROP	03-11-043	Washington state patrol	MISC	03-08-039
Rules			Washington State University	MISC	03-07-008
clarifications	PREP	03-02-086			
	PERM	03-02-087	SALARIES FOR ELECTED OFFICIALS, WASHINGTON		
School employees' retirement system			CITIZENS' COMMISSION ON		
earnable compensation	PROP	03-01-051	Meetings	MISC	03-01-087
elected and appointed officials	PROP	03-05-041		MISC	03-08-074

Subject/Agency Index

(Citation in bold type refer to material in this issue)

SEATTLE COMMUNITY COLLEGES

Administration PROP 03-06-067
 PROP 03-10-078
 Meetings MISC 03-06-027

SEATTLE MONORAIL PROJECT

Corridor and design public hearings PROP 03-08-041
 PERM 03-11-007

SECRETARY OF STATE

Archives grant program PERM 03-06-069
 Elections
 absentee ballots PREP 03-11-062
 Help America Vote Act
 complaint procedure PREP 03-09-141
 preliminary plan MISC 03-11-063
 presidential primary PREP 03-09-140
 registering voters with nontraditional addresses PROP 03-07-086
 PROP 03-10-055
 Salaries for elected officials PREP 03-13-004

SHORELINE COMMUNITY COLLEGE

Meetings MISC 03-05-040
 MISC 03-07-027
 MISC 03-12-011

SKAGIT VALLEY COLLEGE

Meetings MISC 03-03-015
 MISC 03-04-059
 MISC 03-04-060
 MISC 03-05-018
 MISC 03-06-010
 MISC 03-06-011
 MISC 03-06-012
 MISC 03-09-105
 MISC 03-13-050
 MISC 03-14-087

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Aging and adult services
 abuse, reporting of incidents PREP 03-12-056
 adult day services PROP 03-01-010
 PERM 03-06-024
 adult family homes PROP 03-10-090
 PREP 03-12-055
 PERM 03-14-018
 boarding home licensing PROP 03-03-018
 PROP 03-07-088
 comprehensive assessment reporting evaluation
 (CARE) PROP 03-01-116
 PERM 03-05-097
 contracted residential care services PREP 03-02-078
 COPEs care payment rate PROP 03-06-093
 PERM 03-09-092
 guardianship fees PROP 03-06-094
 home and community services and programs PREP 03-09-089
 PROP 03-09-091
 PROP 03-11-066
 PREP 03-11-088
 PERM 03-13-091
 PREP 03-14-099
 Medicaid nursing facility payment system PREP 03-07-031
 medically needy residential waiver program PROP 03-09-042
 EMER 03-13-007
 PERM 03-13-052
 Alcohol and substance abuse
 chemical dependency assistance programs PERM 03-02-079
 Assistance programs
 additional requirements for emergent needs
 program EMER 03-04-067
 alien emergency medical PREP 03-10-088
 assistance units PROP 03-13-090
 benefit error PREP 03-07-040
 cash assistance PERM 03-06-046
 citizenship/alien status PREP 03-03-007
 eligibility reviews for family and children's
 programs **EMER 03-14-060**
 PREP 03-14-077
 emergency cash assistance PREP 03-11-089
 EMER 03-12-027
 family child care homes PROP 03-06-092
 PERM 03-09-074

food assistance PERM 03-01-005
 PREP 03-01-061
 PROP 03-01-062
 PROP 03-02-064
 PROP 03-02-065
 PROP 03-02-066
 PERM 03-03-072
 PERM 03-05-028
 PERM 03-05-029
 PERM 03-05-030
 PERM 03-05-031
 PREP 03-06-056
 PREP 03-13-034
 PREP 03-13-035
 PREP 03-14-080
 incapacity PROP 03-08-079
 PREP 03-13-033
 income PROP 03-03-008
 PERM 03-03-071
 PERM 03-06-095
 PREP 03-07-042
 interview requirements
 limited English proficient services (LEP) PERM 03-01-115
 medically indigent program **EMER 03-14-104**
 pharmacy and therapeutics committee **PREP 03-14-078**
 premiums-children's medical **PREP 03-14-079**
 resource eligibility and limits EMER 03-02-080
 PERM 03-05-015
 self-employment income PREP 03-06-057
 PROP 03-09-073
 PERM 03-13-045
 standards for payment PERM 03-03-114
 telephone assistance program EMER 03-12-057
 PREP 03-13-044
 Washington combined application project
 (WASHCAP) PREP 03-07-087
 PREP 03-13-034
 working connections child care EMER 03-06-045
 EMER 03-12-026
 EMER 03-14-061
 Child care agencies/licensing requirements
 child day care centers PROP 03-09-005
 PERM 03-14-110
 child foster homes, group care
 programs/facilities, and agencies EMER 03-05-099
 EMER 03-14-012
 emergency respite centers PROP 03-01-117
 PERM 03-08-026
 seasonal child care program PREP 03-01-060
 PROP 03-09-033
 PERM 03-14-109
 Child support, division of
 administrative orders and procedures PROP 03-13-092
 hearings and conference boards EMER 03-07-030
 license suspension program PREP 03-09-090
 Uniform Parentage Act EMER 03-04-088
 EMER 03-12-064
 Children's administration
 adoption PERM 03-02-059
 EMER 03-11-067
 PREP 03-11-090
 PERM 03-04-013
 Deaf, Washington State School for the EMER 03-06-091
 emergency respite centers PREP 03-03-056
 family reconciliation services EMER 03-03-069
 EMER 03-11-024
 PROP 03-14-100
 foster care EXPE 03-08-087
 PERM 03-14-062
 group receiving centers EMER 03-04-035
 EMER 03-12-004
 PERM 03-05-100
 Deaf and hard of hearing services
 Developmental disabilities services
 community residential services and supports PREP 03-02-063
 state supplemental payment (SSP) EMER 03-03-115
 EMER 03-10-026
 EMER 03-10-027
 Health and rehabilitative services
 chemical dependency service providers PROP 03-12-066
 emergent psychiatric inpatient care **PREP 03-14-059**
 opiate substitution program EMER 03-06-059
 EMER 03-14-076
 psychiatric indigent inpatient program **EMER 03-14-081**

Subject/Agency Index

(Citation in bold type refer to material in this issue)

special commitment--sexually violent predators	EMER 03-12-003		MISC 03-14-003
Hearing rules	EMER 03-07-043		MISC 03-14-004
	PROP 03-09-116		MISC 03-14-005
	PERM 03-13-046		MISC 03-14-006
Juvenile rehabilitation			MISC 03-14-007
placement	PERM 03-03-070		MISC 03-14-008
powers of administrative law judge	PERM 03-01-044		MISC 03-14-009
Medical assistance			MISC 03-14-010
acute physical medicine and rehabilitation			MISC 03-14-011
program	PERM 03-06-047		MISC 03-14-056
administration of programs	PREP 03-02-058		MISC 03-14-082
	PREP 03-03-017		MISC 03-14-083
	EMER 03-03-027		MISC 03-14-132
	PROP 03-10-091		MISC 03-14-133
	EMER 03-10-092		MISC 03-14-134
	PERM 03-14-106	kidney disease program and kidney center	
AIDS, CASA services	EXPE 03-02-060	services	PROP 03-14-103
	PERM 03-08-067	legislative amendments	PREP 03-12-054
aliens	EXPE 03-10-093	long-term care	PERM 03-02-056
children's health program	PREP 03-04-086		PERM 03-06-048
children's medical eligibility	PREP 03-06-055		EMER 03-08-064
	PROP 03-10-048		PREP 03-08-082
	PERM 03-14-107		PROP 03-09-117
disease management program	PROP 03-09-119		EXPE 03-13-112
	PERM 03-13-054		PERM 03-13-113
durable medical equipment	PERM 03-05-051		PERM 03-14-038
	EXPE 03-05-054	managed care	PREP 03-10-086
	PERM 03-12-005		PROP 03-14-064
electronic health information transactions	PREP 03-08-086		PROP 03-14-065
family planning services	PROP 03-12-067		PROP 03-14-066
first steps childcare program	PROP 03-14-101		PROP 03-14-067
home infusion therapy	PREP 03-10-049	maternity-related services	PREP 03-11-085
hospital payment methods	PREP 03-13-089	medically needy residential waiver program	
hospital services	PROP 03-09-118	(MNRW)	EMER 03-05-044
	PREP 03-10-050		EMER 03-05-098
	PERM 03-13-053	nonemergency medical transportation	PREP 03-08-023
	PROP 03-14-102	payment method - inpatient and outpatient	PROP 03-06-111
income standards	EMER 03-08-065		PERM 03-13-055
interpretive or policy statements	MISC 03-01-002	pharmacy services	PROP 03-01-011
	MISC 03-01-003		PERM 03-05-043
	MISC 03-01-004		PREP 03-11-086
	MISC 03-02-067	physician-related services	PERM 03-06-049
	MISC 03-02-068		PREP 03-08-084
	MISC 03-02-069	standards for payment	PREP 03-06-058
	MISC 03-02-070		EMER 03-08-066
	MISC 03-02-071		PREP 03-08-081
	MISC 03-02-072		PREP 03-08-083
	MISC 03-04-008		PREP 03-08-085
	MISC 03-04-009	trauma services	PROP 03-12-068
	MISC 03-04-010	trusts, annuities, and life estates	PREP 03-04-087
	MISC 03-04-011	unearned income	PROP 03-02-055
	MISC 03-04-012		PREP 03-04-085
	MISC 03-04-083		PROP 03-10-089
	MISC 03-04-084		PERM 03-14-108
	MISC 03-05-053	Mental health	
	MISC 03-05-096	community mental health and involuntary	
	MISC 03-06-083	treatment programs	PREP 03-07-041
	MISC 03-06-084	community support service providers	PREP 03-08-077
	MISC 03-06-085	Public meetings	MISC 03-02-109
	MISC 03-06-086		MISC 03-06-115
	MISC 03-06-087	Public records	PREP 03-10-087
	MISC 03-06-088		PROP 03-14-063
	MISC 03-06-089	Rules	
	MISC 03-06-090	agenda	MISC 03-05-016
	MISC 03-06-096	withdrawal, correction	PREP 03-05-052
	MISC 03-06-097	withdrawals	PROP 03-01-093
	MISC 03-06-098		PREP 03-03-112
	MISC 03-07-039		PREP 03-03-113
	MISC 03-08-022		PROP 03-06-070
	MISC 03-08-024		PREP 03-07-038
	MISC 03-08-025		PREP 03-10-051
	MISC 03-08-080		PROP 03-11-025
	MISC 03-09-003		PROP 03-13-095
	MISC 03-09-004		PREP 03-14-057
	MISC 03-09-115		PREP 03-14-058
	MISC 03-11-083		PREP 03-14-098
	MISC 03-11-084	Special commitment center	
	MISC 03-12-065	sexual predator program	PREP 03-08-078
	MISC 03-13-006	Vocational rehabilitation services	
	MISC 03-13-042	federal compliance	PERM 03-02-014
	MISC 03-13-043	Washington combined application project	
	MISC 03-14-002	(WASHCAP)	PERM 03-01-045

Subject/Agency Index
(Citation in bold type refer to material in this issue)

WorkFirst support services transitional work expense	PREP 03-11-087 EMER 03-04-066 EMER 03-12-025 EMER 03-14-105		PREP 03-13-041 EMER 03-14-050
SOUTH PUGET SOUND COMMUNITY COLLEGE		Rules agenda Small works roster Special motor vehicles permit issuance Tow trucks emergency operations	MISC 03-02-062 PERM 03-03-012 PERM 03-02-057
Distribution and posting of materials Meetings	PERM 03-03-089 MISC 03-03-051 MISC 03-09-047 MISC 03-12-030	Uniform traffic control devices, manual	PREP 03-11-075 EMER 03-14-026 EMER 03-03-028 PROP 03-03-029
SPOKANE, COMMUNITY COLLEGES OF		Vehicles oversize/overweight vehicles, speed limits Wireless communication access to highways	PERM 03-03-035 EMER 03-04-040 PREP 03-04-113 EMER 03-08-008 PROP 03-08-061 PERM 03-11-076
Rules review	PREP 03-09-094 PROP 03-13-081 PROP 03-13-082		
SPORTS, PROFESSIONAL (See HORSE RACING COMMISSION)		TREASURER'S OFFICE Usury rate (See inside cover)	
STATE PATROL Criminal history record information	PERM 03-05-007	UNEMPLOYMENT COMPENSATION (See EMPLOYMENT SECURITY DEPARTMENT)	
SUPREME COURT, STATE Admission to practice rules	MISC 03-07-046 MISC 03-07-048 MISC 03-13-063	UNIFORM LEGISLATION COMMISSION Meetings	MISC 03-08-057
Appeal, rules on	MISC 03-01-023 MISC 03-01-027 MISC 03-13-060 MISC 03-13-061	UNIVERSITY OF WASHINGTON Academic calendar	PROP 03-02-023 PERM 03-08-040 PREP 03-09-040 MISC 03-03-127 MISC 03-03-023 MISC 03-09-012
Commission on supreme court meetings General application, rules of	MISC 03-11-052 MISC 03-01-025 MISC 03-01-026 MISC 03-01-027 MISC 03-07-018 MISC 03-07-020 MISC 03-07-045 MISC 03-13-060 MISC 03-13-062 MISC 03-01-024 MISC 03-01-027 MISC 03-07-019 MISC 03-07-047 MISC 03-01-027 MISC 03-07-019 MISC 03-13-059 MISC 03-13-061	Board of regents, meetings Meetings Policy statement	
Limited jurisdiction, courts of		Rules agenda corrections	MISC 03-03-022 EXPE 03-05-019 PERM 03-12-007
Superior court		USURY RATE (See inside cover)	
TACOMA COMMUNITY COLLEGE Meetings	MISC 03-01-030 MISC 03-09-139	UTILITIES AND TRANSPORTATION COMMISSION Electric companies - purchases of electricity Hazardous liquid pipeline safety	PREP 03-09-070 PERM 03-01-064 PREP 03-07-034 MISC 03-04-051 MISC 03-04-052 MISC 03-14-001 PREP 03-09-068 PREP 03-09-069 MISC 03-04-005 PREP 03-04-004
TAX APPEALS, BOARD OF Meetings	MISC 03-01-029	Interpretive or policy statements	
TRANSPORTATION COMMISSION Meetings	MISC 03-01-069 MISC 03-02-050	Leased-cost planning	
TRANSPORTATION IMPROVEMENT BOARD Project funding and development	PREP 03-08-038 PROP 03-12-009	Meetings Remote control locomotive operations Rules agenda	MISC 03-04-006 MISC 03-14-143 PERM 03-01-022 PROP 03-02-081
TRANSPORTATION, DEPARTMENT OF Central field office descriptions	EXPE 03-04-062 PERM 03-09-103 PREP 03-14-027	corrections withdrawals Telephone companies rules, clarifications and revisions	PERM 03-01-065 PERM 03-03-090
Escort vehicles Ferries fares	PREP 03-01-114 PROP 03-04-102 PERM 03-08-072 PERM 03-06-053 EMER 03-06-052 PREP 03-11-070 EMER 03-11-071 PREP 03-13-040 EMER 03-14-051	WASHINGTON STATE PATROL DNA identification	PROP 03-04-070 PERM 03-08-053
Manual on uniform traffic control devices Motorist information signs		Fire protection standards licensed care facilities Rules coordinator withdrawals Transit city buses, suncreening devices	PERM 03-06-063 MISC 03-08-039 PROP 03-06-071 PROP 03-08-089 PERM 03-12-013
Roads and highways HOV lanes	EMER 03-06-014	WASHINGTON STATE UNIVERSITY Meetings	MISC 03-03-031 MISC 03-10-094 MISC 03-01-040 MISC 03-07-008 PREP 03-07-012 PROP 03-10-060

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Traffic and parking	
Intercollegiate college of nursing	PREP 03-07-011 PROP 03-10-058
Spokane campus	PREP 03-07-010 PROP 03-10-057
Vancouver campus	PREP 03-07-009 PROP 03-10-059

WATER

(See **ECOLOGY, DEPARTMENT OF**)

WENATCHEE VALLEY COLLEGE

Meetings	MISC 03-02-051 MISC 03-03-103
----------	----------------------------------

WESTERN WASHINGTON UNIVERSITY

Admission and registration procedures	PREP 03-14-041
Meetings	MISC 03-03-105 MISC 03-14-025
Student rights and responsibilities	PERM 03-01-123

WHATCOM COMMUNITY COLLEGE

Control of dogs	PERM 03-01-071
Meetings	MISC 03-02-011
Rules	
agenda	MISC 03-03-074 MISC 03-03-106
Student rights and responsibilities	PERM 03-01-072

WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD

Meetings	MISC 03-01-082 MISC 03-09-055 MISC 03-11-053 MISC 03-12-012 MISC 03-12-029 MISC 03-13-065
----------	--







17





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